

**City of Alexandria Housing:
Education Series for Community
Associations**



Reserves

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Program Overview

- Reserves Basics
- Reserve Requirements
- Looking Forward



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Surfside Condominium Collapse

On June 24, 2021 at 1:25 A.M., Champlain Tower South in Surfside, Florida suddenly collapsed.

After consultation with six engineering experts, the collapse is *believed* to have been caused by a structural column or concrete slab beneath the pool deck giving way from failed waterproofing.



The collapse resulted in the death of 98 people.



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Surfside Condominium Collapse

- Primary Culprits for Collapse
 - Environmental Issues
 - Structural Damage
 - Delayed Repairs
- 40-year Inspection
 - \$15 million in repairs
 - Building still “in very good shape”
- Repair work never completed



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The Basics of Reserves



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What are Reserves?

- **Reserve Fund** – A budgeted portion of assessments set aside for paying costs to repair and replace capital components.
- **Purpose** – Fairly distribute the cost of maintenance over time, so that each homeowner pays their “fair share” for the use of the property while living in the community.



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Why Contribute to Reserves?

Properly-funded reserves minimize the chance of having special assessments or loans to pay for repairing or replacing capital components.

Homeowners do not like fluctuations in assessments. With properly-funded reserves, the large costs of maintaining capital components can be evenly spread over time, making assessments more predictable.



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Steps to Provide for Adequate Reserves

Resolve to Conduct Study

Identify Reserve Study Products

Establish a Work Plan

Conduct the Reserve Study

Disclose & Implement Results



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What is a Reserve Study?

Capital budget **planning tool** used to determine the physical status and repair or replacement cost of **capital components** and an analysis of an association's funding capacity to maintain, repair and replace capital components.

Guidelines for the Development of Reserve Studies for Capital Components, Adopted by the Virginia Common Interest Community Board September 5, 2019.



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CICB Reserve Study Guidelines

Legislation

- House Bill 2030 & Senate Bill 1538 – enactment clause.
- CICB directed to:
Develop guidelines for the development of reserve studies for capital components, including a list of capital components that should be addressed in a reserve study.



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CICB Reserve Study Guidelines

Content

- Summarizes law addressing reserves
- Breaks down reserve studies
 - Physical Analysis
 - Financial Analysis
- Recommendations
- Glossary Appendix



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Why a Reserve Study?

- Not a spending plan.
- Not a prescription for the community.
- Provides a rational basis for budget planning.

The Board is the only entity with authority to decide on funding reserves.



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Cost Estimates

- Best information is cost history from the property
- Reference sources
- Contractor estimates
- Phased projects
- Design and project management costs



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Service Lives

- Best information is project history
- Reference sources



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Funding Analysis – Calculation Methods

- Component Method
- Accrued Value
- Baseline Funding Cash Flow
- Threshold Funding Cash Flow



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Funding Methods – Comments & Limitations

Component Method – not often used.

Accrued Value – the method favored by the Virginia Common Interest Community Board guidelines, but is almost never used because it requires very large reserve fund balances to be fully funded.

Baseline Cash Flow – most commonly used method.

Threshold Cash Flow – second most commonly used method.

Hybrid – since there is no accepted definition, it means whatever the reserve analyst says – read carefully.



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Management and Board Review

- Check financial assumptions.
- Check for obvious errors.
- Is the plan understandable?
- Does the plan meet community objectives?
- Keep in draft until there is a consensus to accept the report.



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Implementing A Reserve Plan

- Make adjustments with the reserve analyst to meet community objectives and preferences
- Draft report to present to community
- Incorporate community feedback into final report



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What happens if current assessments are low and a large increase is needed?

- Have a clear understanding of the need so that it can be clearly communicated to the community.
- Discuss optional funding plans.
- Discuss deferring large projects or phasing projects if possible without compromising safety or community's objectives.
- Remember that the reserve report is only an opinion. Get a second opinion if it seems advisable.



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What are the options for raising funds when reserves are insufficient and assessments are too low?

- **Loans** – a number of banks are experienced in working with community associations. Costs of borrowing should be considered.
- **Special assessments** – unpopular but sometimes necessary.
- **Raising assessments gradually over time** – a good option if timing of project allows.
- **A combination of all approaches** – offers options.



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Effectively Communicating the Reserve Plan to the Community

- The Board and reserve analyst should reach a consensus.
- Focus on short term objectives – a 5-year plan is a good start.
- Provide simple summaries to the community.
- An open meeting with the Board and the reserve analyst to discuss the plan and answer questions.
- Make the full reserve study report available to residents.

CICB Guidelines include a template for a one-page summary that can be used in resale disclosure and for sharing the reserve plan with the community.



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Annual Review of Reserves

- The Board and management should review reserves each year.
- Compare objectives with actual expenses and assessments.
- Consult with the reserve analyst if there are major changes in circumstance or large discrepancies.



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Virginia Laws Concerning Reserves

**ALWAYS CONSIDER RECORDED
AND OTHER GOVERNING DOCUMENTS!!!**

Must Reserves Be Funded? – **NO**

Reserve Study Required? – **YES**

- Must be conducted *at least once every five* years.
- Must be reviewed annually to determine if reserves are sufficient.

Governing Statutes

- Property Owners' Association Act, § 55.1-1826
- Condominium Act, § 55.1-1965



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Reserve Study Updates

- Update required every 5 years.
- May update more frequently if circumstances require.
 - If the property is undergoing a series of major, costly projects, more frequent updates can be helpful.
 - If circumstances change dramatically, an update should be considered.



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Virginia Laws Concerning Reserves

Must Amount of Reserves be Disclosed? - **YES**

- Statement 1 – Describe procedures for estimating and accumulating cash reserves pursuant to reserve study
- Statement 2 – Amount of reserves recommended by reserve study
- Statement 3 – Amount of current cash in replacement reserves

Resale Disclosure Required? – **YES**

- Property Owners' Association Act, § 55.1-1809.A.5
- Condominium Act, § 55.1-1991.A.5



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Additional Considerations

Lending Requirements – Federal Housing Administration (FHA)

- FHA Approval dependent on **condominium** financial stability
- Financial Stability *includes* review of reserves
 - Reserves must be funded at rate of at least 10% of the aggregate monthly assessment
 - *Unless* a lower amount is deemed sufficient based on acceptable reserve study

Source: FHA Single Family Housing Policy Handbook, Condominium Project Approval (issued October 24, 2019); https://www.fha.gov/sites/default/files/documents/4000.1high_update7.pdf



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Looking Forward...

Legislation Anticipated in 2023

- Study Resolution possible during 2022 Session of the General Assembly **or Virginia Housing Commission requested to conduct study.**
- Recommendations for legislation addressing reserves.



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CAI Response to Surfside Collapse

CAI conducted research to assist in producing new public policy recommendations for condominium safety. CAI produced the **Condominium Safety Public Policy Report** in **October of 2021**. The report contains recommendations on reserve studies and funding, building maintenance and structural integrity.

- Reserve Study Requirements
- Reserve Study Funding
- Disclosure to New Buyers
- Funding for Emergent Life Safety Issue Repairs
- Developer requirements at or before turnover
- Frequency of inspections
- Reasons for inspections
- Protocol for inspections
- Qualifications to conduct inspections

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CAI Response to Surfside Collapse

Reserve Study and Funding Policy Position:

- Require reserve studies to comply with National Reserve Study Standards.
- Mandate reserve studies before and during construction, at turnover from developer, and on a periodic basis thereafter.
- Mandate reserve funding for community associations.
- Mandate disclosure to new buyers of Reserve study funding plan.
 - Reserve fund financial condition, and funding plan, during annual budgeting.
- Require reserve studies to be conducted by a reserve specialist, reserve professional, or other qualified professional.
- Address funding for emergent life safety issue repairs by authorizing association governing board to assess or borrow funds without membership vote.

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CAI Response to Surfside Collapse

Building Maintenance & Structural Integrity Policy Position:

- Provide the final approved architectural and engineering design drawings to obtain building permits and certificates.
- Perform ongoing inspections during construction to confirm general conformance to the plans.
- Provide a preventative maintenance manual to the association of the common area components.
- Provide to prospective purchasers a summary of the future building inspection requirements along with the projected cost.
- For new construction, the first inspection conducted no later than five years after occupancy.
- For buildings more than 10 years old, the first inspection conducted within 2 years of passage of new statutory requirements.
- Periodic inspections after the first inspection shall take place every 10-years for the first 20 years after construction and 5 years thereafter, unless recommended sooner.

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CAI Response to Surfside Collapse

Building Maintenance & Structural Integrity Policy Position:

- At any time, there is concern about the safety or stability of the building structure, an inspection should be conducted immediately.
- The protocol for inspection can be found in the ASCE Standard SEI/ASCE 11-99 (latest edition) Guideline for Structural Condition Assessment of Existing Buildings.
- The inspections must be conducted by the following assuming they meet the minimum requirement of being a licensed engineer with appropriate qualifications.
 - Local municipal building inspector
 - Licensed engineer hired by the building inspector or the community association

If a safety concern is identified in the inspection reports the inspector must notify the local governmental authorities in writing and record the date and receipt of notice.

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Reserves

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RESERVE STUDY QUICK REFERENCE

What is a Reserve Study?

Capital budget planning tool used to determine the physical status and repair or replacement cost of capital components and an analysis of an association's funding capacity to maintain, repair and replace capital components.¹

Governing Statutes

- Property Owners' Association Act – Section 55.1-1826
- Condominium Act – Section 55.1-1965

Statutory Requirements

Reserve Study

- Conduct a reserve study “*at least once every five years.*”
- Review reserve study results “*at least annually to determine if reserves are sufficient.*”
- Make any adjustments deemed necessary to maintain reserves

Disclosures

- Statement 1 – Describing procedures for estimate and accumulation of cash reserves pursuant to reserve study.
- Statement 2 – Amount of reserves recommended by reserve study.
- Statement 3 – Amount of current cash for reserves.

CICB Reserve Study Guidelines

- 2019 General Assembly legislation required Common Interest Community Board to “*develop guidelines for the development of reserve studies for capital components, including a list of capital components that should be addressed in a reserve study.*”
- Available on [CICB website](#), also accessible through this QR Code:



Community Associations Institute

- International membership organization dedicated to building better communities through advocacy and education.
- Substantial resources and information concerning reserves available on [CAI website](#), also accessible through this QR Code:



¹ *Guidelines for the Development of Reserve Studies for Capital Components*, Adopted by the Common Interest Community Board September 5, 2019.



GUIDELINES FOR THE DEVELOPMENT OF RESERVE STUDIES FOR CAPITAL COMPONENTS

**ADOPTED BY THE
COMMON INTEREST COMMUNITY BOARD
September 5, 2019**

PREFACE

Chapters 33 and 44 of the 2019 Virginia Acts of Assembly, which resulted from the passage of House Bill 2030 and Senate Bill 1538, direct the Common Interest Community Board (“Board”) to “...*develop guidelines for the development of reserve studies for capital components, including a list of capital components that should be addressed in a reserve study.*”

In accordance with the General Assembly’s directive, the Board convened a committee of industry experts including Board members to assist in developing these guidelines for the development of reserve studies for capital components, as defined in the Code of Virginia. This document reflects the significant input and contributions of those industry professionals experienced in the development of reserve studies for common interest communities, and generally reflects standard and accepted industry practice.

This document is intended to provide useful information and guidance to members of the public, including members of association governing boards and those who provide management services to associations, regarding developing reserves studies. This document is not intended to regulate the development of or define a “standard of care” for reserve studies, and does not prescribe, or proscribe, any specific method for developing such studies.

Introduction

Throughout the United States various forms of real property ownership in which multiple homeowners agree to share in the common ownership of certain real property have emerged for mutual benefit and enjoyment. Developers have employed this approach to, among other things, create neighborhoods, increase density, comply with local zoning and proffer requirements, and allow neighbors to establish shared services, facilities and expenses, take advantage of economies of scale and sustain and enhance property values.

In Virginia, developments of this type are called *common interest communities* (CICs), and are administered and governed by one of the following: property owners' association, condominium unit owners' association, or real estate cooperative association. Generally, in a CIC individuals own a lot or unit in the community and have shared ownership with other owners in the remaining real property, the ***common area or common elements***. Real estate cooperatives are somewhat different in that the real property is owned by a corporation, and the membership of the association is made up of proprietary lessees, who are entitled to exclusive use and possession of a unit through a proprietary lease from the company.

CICs have three general characteristics:

1. Property is subject to ***governing documents*** that organize the community, provide for the administration of the community and common area or common elements through an association, and establish the rights and obligations of the association, individual owners, and the association's governing board.
2. By virtue of ownership, membership in the association is mandatory and automatic.
3. CIC members are required to pay ***assessments*** to fund the association and maintain the property.

In a CIC, responsibility for maintenance and upkeep of the property is established by the community's governing documents. Generally, these responsibilities are divided between the association and the individual lot or unit owners. Items that the association is obligated to maintain, repair, and replace, regardless of whether such items are part of the common area or common elements, and for which the association governing board has determined funding is necessary, are called ***capital components***.

The number and nature of capital components vary from community to community. For some communities there may only be a few components, such as a shared road or entrance feature, signage for the community, and landscaping. Other communities may have significantly more components, including structures such as parking garages or recreational facilities (e.g.

exercise rooms, pools, tennis courts). In addition, many communities have stormwater management facilities, which are often required to be installed as a measure to protect the environment. These might take the form of a pond or other waterway in the community. Stormwater management facilities, if part of the common area or common elements, are the responsibility of the association to maintain. A list of typical common area or common elements components is located at Appendix C. This list is not exhaustive, and does not reflect every type of component that may be found in a community.

In order to ensure capital components are properly maintained, repaired, and timely replaced, associations establish a *reserve fund* consisting of a budgeted portion of monies collected from assessments imposed on lot or unit owners. Funds in reserve are set aside for the dedicated purpose of paying for costs to repair and replace capital components when the need arises. In this sense, a reserve fund is like a “piggy bank.” By establishing and funding a reserve, associations can lessen the potential of having to impose costly special assessments to pay for repairing or replacing capital components.

Toward this end, Virginia law requires the governing board of an association to conduct a study, called a *reserve study*, periodically to determine the necessity and amount of reserves required to repair, replace and restore the capital components. A reserve study is a capital budget planning tool used to determine the physical status and repair or replacement cost of a community’s capital components, and an analysis of an association’s funding capacity to maintain, repair, and replace capital components.

Sections 55-79.83:1, 55-471.1, and 55-514.1 of the Code of Virginia state, in part¹:

Except to the extent otherwise provided in the [governing documents], the [governing board] shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components, as defined in [applicable section of the Code of Virginia];
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the [governing board] deems necessary to maintain reserves, as appropriate.

In addition, these provisions in the Code stipulate that:

¹ Note: These provisions of the Code of Virginia will be recodified effective October 1, 2019. See Appendix A for the complete sections of the Code.

To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitation:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in [applicable section of the Code of Virginia];
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

Because an association governing board has a fiduciary duty to manage association funds and property, establishing a reserve fund and making provision in the association budget for reserves is important. The information provided by a reserve study aids association members in understanding the physical condition of the property, and the financial condition of the association, in order to allow for adequate planning. A reserve study can serve as an important tool for the association to balance and optimize long-term property values and costs for members, as reserve planning helps assure property values by protecting against decline in value due to deferred maintenance and inability to keep up with aging components.

By establishing a reserve fund and maintaining sufficient reserves, a governing board can reduce the need to impose special assessments on association members when it comes time to replace capital components, particularly if the replacement cost is high. Even if a community only has a limited number of components, such as a simple road or driveway, setting aside funds in advance will help guard against financial shock when repair or replacement is needed. In addition, it creates a more equitable balance between newer owners in a community, and older owners, as newer owners will not have to assume the burden of the cost to repair or replace older components in the community.

Moreover, a reserve study is beneficial to purchasers of property in a CIC. A reserve study can aid in the evaluation of the value of property being purchased by knowing the condition of the capital components, and show a more accurate and complete picture of the association's financial position to handle the expense of maintaining the capital components.

In addition to establishing a reserve fund for capital components, associations should also consider establishing an operating reserve for budget overages. An operating reserve provides the association with funds in case of unexpected budget overages or unforeseen operating expenses. Replacement reserve funds should not be used to cover unanticipated operating expenses.

The Basics of Reserve Studies

Components of a Reserve Study

There are two components of a reserve study: (i) a ***physical analysis*** and (ii) a ***financial analysis***. The physical analysis provides information about the physical status and the repair or ***replacement cost*** of components the association is obligated to maintain. The physical analysis entails conducting an ***inventory*** of components, an assessment of component condition, and ***life and valuation estimates***. The financial analysis assesses the association's reserve income and expenses, by examining the reserve ***fund status***, measured in cash or ***percent funded***, and recommending an appropriate contribution for the fund.

Types of Reserve Studies

Reserve studies can be grouped into four types, each of which reflects differing levels of service. The Community Associations Institute (CAI) identifies the following four levels of service.

1. **Full Study**: A full reserve study is the most comprehensive level of service. A full study involves performing: (i) a ***component inventory***, (ii) a ***condition assessment*** (based upon on-site visual observations), and (iii) life and valuation estimates of components; then determining (iv) the reserve fund status, and (v) a funding plan.
2. **Update, With-Site-Visit/On-site Review**: A reserve study update which involves performing (i) a component inventory (verification only, not quantification), (ii) condition assessment (based upon on-site visual observation), and (iii) life and valuation estimates of components; then determining (iv) the reserve fund status, and (v) a funding plan.
3. **Update, No-Site-Visit/Off Site Review**: A reserve study update with no on-site visual observations in which involves performing (i) life and valuation estimates of components; then determining (ii) the reserve fund status, and (iii) a funding plan.
4. **Preliminary, Community Not Yet Constructed**: A reserve study prepared before construction that is generally used for budget estimates. It is based on design documents such as the architectural and engineering plans, and involves performing (i) a component inventory, (ii) life and valuation estimates of components; then determining (iii) a funding plan.

Contents of a Reserve Study

A reserve study should consist of the following:

- A summary of the community, including the number of units, physical description, and the financial condition of the reserve fund;
- A projection of the reserve starting balance, recommended reserve contributions, projected reserve expenses, and the projected ending reserve fund balance for typically a 30-year period; but at least a minimum of 20 years;
- A tabular listing of the component inventory, component quantity or identifying descriptions, useful life, remaining useful life, and current replacement cost;
- A description of the methods and objectives utilized in computing the fund status in the development of the funding plan;
- Source(s) utilized to obtain component repair or replacement cost estimates; and
- A description of the level of service by which the reserve study was prepared and the fiscal year for the reserve study was prepared.

Governing Board Action Steps to Providing for Adequate Reserves

In order to provide for reserves adequately, an association should employ a systematic approach involving specific action steps. First, the association's governing board should **resolve to have a reserve study** by passing a resolution that a reserve study be performed and commit the association to taking action to ensure the study is conducted.

Communities that have been operating without a reserve study are not in compliance with Virginia law and must undertake to schedule and implement a reserve study. The statutes require the governing board of an association to conduct a reserve study at least once every five years, and review the results of the study annually in conjunction with budget development.

Second, the governing board should **identify the reserve study products needed**. A governing board may contract for the preparation of the physical analysis, financial analysis, and **operating budget** by professionals, or may elect to produce one or more of these items on its own. The governing board may also choose to perform part of the work, and have a professional perform the rest.

Third, the governing board should **establish a work plan**, specifying the nature of the tasks to be performed, before conducting the study. The work plan should establish (i) the types

of components to be included or excluded; (ii) the timeframe for funding common area or common elements components; and (iii) budget for conducting the study.

Identifying components to include. Components that the association is obligated to maintain, repair, or restore should not be excluded from the reserve study, even if the components are not part of the common area or common elements. Components for which individual lot or unit owners are responsible should be excluded from the study. The community's governing documents establish those components that are the responsibility of the association to maintain, and those for which owners are individually responsible. Governing documents may contain a ***maintenance responsibilities chart*** which can be useful for this purpose. In addition, local governments may have information or documents on file (e.g. subdivision documents, easements) regarding the community which can help identify components, including components for which the local government, and not the association, are responsible. (See Appendix C for a list of components that are typically addressed in reserve studies.)

Timeframe. There is not universal agreement of the appropriate timeframe for a reserve study. A good approach is to forecast for a time period that will include the replacement year of the component with the longest estimated useful life. Professionals recommend that the study include all components that will fail before the building itself. "Life-of-the-building" components such as the building foundation and structure are generally excluded from the reserve study budget. However, if there is reason to expect an item will wear out before the building does, or the item may wear out within the time span of the reserve study, then the item should be included as an item in the study.

Careful consideration should be given to the timing of the initial reserve study. In a community governed by a property owners' association, the initial study should take place after the first time a capital component is put into use. In a community governed by a condominium unit owners' association, the initial study should be completed as soon as practicable prior to the transfer of declarant control, and may be in conjunction with the association's preparation of the structural warranty statement.

Budget Available for the Study. Another consideration is funds available to conduct the study. In order to comply with reserve study requirements, associations should, on an annual basis, include in the annual budget funds adequate to enable either a study, or engagement of outside professionals to complete the study, once every five years.

Next, the governing board needs to **identify the components** that must be included in the reserve study. The governing board should identify documents, including the community's

governing documents (i.e. declaration, bylaws), the most accurate drawings of the development, and the maintenance history of major common area and common elements components. If “as built” plans exist, these would be the best source of information about the nature of the major components. The maintenance history should include the actual dollar cost figures of that maintenance. An association should consider creating a “permanent” maintenance history file for each major component.

The governing board should also take into account that existing components may be outdated and may not meet current code requirements, and that components may need to be replaced with newer products that comply with code requirements.

Finally, once the study has been completed, the governing board needs to **accept, disclose, and implement the results** of the study. The governing board reviews and accepts the results of the reserve study, and incorporates this information into the association budget plan. State law specifies that to the extent a reserve study indicates a need to budget reserves, the association budget shall include, without limitation:

- (i) the current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;
- (ii) the current amount, as of the beginning of the fiscal year for which the budget is prepared, of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that fiscal year;
- (iii) a statement describing the procedures used for estimation and accumulation of cash reserves; and
- (iv) a statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

Association governing boards are also required by state law to review the results of the reserve study at least once annually to determine if reserves are sufficient, and make any adjustments they deem necessary to maintain reserves.

Conducting a Physical Analysis

The goals of a *physical analysis* are to (i) estimate useful and remaining life of major components; and (ii) estimate current replacement cost of major components. The analysis lists

and estimates replacement costs and timing for replacement of components whose repair or replacement is funded through association reserves. The study determines when such repairs or replacements will be needed and what repair and replacement will cost. The major steps in conducting a physical analysis are:

1. Identify components.
2. Specify quantities.
3. Inspect components; define scope and methodology for inspection.
4. Determine useful life; document maintenance assumptions.
5. Assess remaining life; determine replacement year.
6. Determine cost of replacement.

There are a number of professional firms that perform reserve studies for CICs in Virginia. This explanation of how to perform a physical analysis will help associations to contract for this service and interpret the study results. For associations that cannot, or do not wish to, hire a professional reserve study preparer, this explanation will provide guidelines for governing board members who decide to perform their own physical analysis. As with other decisions it makes in the conduct of managing association business, governing boards must carefully consider the pros and cons of choosing to undertake their own study, and should consider seeking legal advice before proceeding.

Identify Components

For each community, the list of major components is unique. Lists from other communities or industry publications may serve as a general guide, but are rarely usable without modification and addition. An inaccurate or incomplete list of components can materially distort an association's long-term funding plan. Professionals recommend that items be placed on the list of components for the reserve budget if these components meet all of the following criteria:

- The item is the responsibility of the association to maintain or replace, rather than the responsibility of individual homeowners;
- The item costs over a certain amount to replace (amount to be determined by the governing board)²; and
- The estimated remaining useful life of the item is greater than one year; and the estimated remaining useful life of the item is less than 30 years at the time of the study.

² One possible guideline is to include items that cost 1% or more of the total association budget. Another possible guideline is to include items that cost over \$500 or \$1,000 to replace, including groups of related items (e.g. gates in the development) that cost over \$1,000 to replace. The dollar amount or percentage to use as a guideline should be discussed and adopted by the governing board.

There is often no one document with a comprehensive list of components for a development. Therefore, it is not easy to identify components accurately, although it is nonetheless essential that the association develop an accurate list of all items for which repair or replacement must be budgeted.

The list of components to include depends upon the physical characteristics of the development, as well as upon the legal allocation of responsibility among owners, the association, and local government. Appendix C provides a list of items that might be listed as components for association reserves. However, this list is not exhaustive of all possible items.

A community's governing documents can help provide a list of components. Governing documents, including the declaration for the community, typically provide a general description of the common areas or common elements of the development. In a condominium, the governing documents, called condominium instruments, describe that which is part of each unit and what is outside of the unit. Governing documents usually specify the allocation of responsibilities between the association and individual owners, and can serve as a guide to the components to be included in a reserve study.

The developer's reserve budget should list components the builder identified while planning the project. Such items as streets, roofs, exterior paint, and recreation areas are usually included in the developer's original reserve budget. However, governing documents and the developer's budget may not always account for all components for which the association is responsible. A site analysis by knowledgeable individuals should produce a comprehensive list of items for which the association is, or might be responsible.

Local governments and utility companies can often help to identify capital components by stating where their responsibility for certain components ends, and that of the association begins. For instance, the governing documents or developer budget may be unclear about whether sidewalks along the edge of a development belong to or are the responsibility of the community or the locality. If the sidewalks are an association responsibility, then sidewalks are components which should be included in the reserve budget; if not, then the budget need not account for repair and replacement.

Quantifying Components

Although existing maps and construction drawings of a development may serve as a guide to component quantities, a detailed site and building analysis is the best way to obtain an accurate count of these items. For some components, such as streets, roofs, and fences, the square or linear footage must be measured in order to describe the quantity; while for other items, such as utility room doors, it may be sufficient to know the number required. The approved plans and

specifications on file with the locality, and the *as-built plans*, if different from those filed with the local government, can be an excellent source of information for these quantities.³

For components that are actually made up of a number of items, the nature and quantity of the constituent parts should be stated (e.g., the metal flashing for a shake roof as well as the square footage of shingles). It is common to overlook the “extra” pieces that are in fact necessary to the construction of essential items such as roofs, siding, and irrigation systems.

Once the number and constituent parts of each component are detailed, it is necessary to give some consideration to the quality and specifications of those parts. For instance, is the asphalt two inches thick, or four inches thick? Is the roof a two-ply roof? What grade of paint was used? An accurate description of the materials is essential to proper reserves. If significant in dollar amount, quantities of the same type of component existing in very different conditions should be noted separately (e.g., the square footage of siding with western or southern exposure as compared to the square footage with eastern or northern exposure).

Determining Useful Life and Remaining Life of Components

Useful life (UL) is typically defined as the number of years the component is expected to serve its intended purpose if given regular and proper maintenance. If the association fails to provide proper maintenance, then it may become difficult to anticipate the useful life of components.

One estimate of useful life is material manufacturer’s warranty. This estimate presumes, usually in writing in the fine print of the warranty, that the product was installed with the purported quality of materials and according to the manufacturer’s specifications. Sometimes components may have been installed with lesser quality materials or inferior workmanship, thereby making the effective useful life shorter. When no knowledgeable inspection is made of the materials and installation, the manufacturer’s warranty may not be an accurate description of the useful life of the component.

There are also commercially available manuals that have estimates of useful life. Published data may not be consistent with the location, exposure, or type of a particular component. The estimated life of a street as predicted from national data may well be lower than that of a street in a comparatively mild climate, but the estimated life of exterior paint as predicted from national averages may be higher than that of paint on buildings in windy or coastal areas. In using published estimates, it is necessary to consider how the specific case in question may differ from the average case considered by the manual’s author. Useful life estimates may vary considerably from manual to manual, so consulting more than one manual

³ The drawings filed when the development was begun represent builder plans, but may not reflect the development as actually constructed. Therefore, they can be useful, but should be verified by physical inspection.

may guard against the risk of underestimating or overestimating the life of a component. The source(s) of component useful life estimates should be identified specifically.

Remaining useful life (RUL) is generally defined as the expected number of years the component will continue to serve its intended purpose prior to repair or replacement. If the development is new and the developer-prepared estimates are correct, the remaining useful life might be estimated simply by subtracting the age of the development from the useful life of each component. The older the components, the less accurate this method will be.

Some of the factors that affect the remaining useful life of a component are (i) current age, (ii) apparent physical condition, and (iii) past maintenance record (or absence of maintenance). The current age of the component may be determined from association records. The apparent current condition must be determined through physical inspection, preferably by someone familiar with the component. Records of past maintenance must be compared with recommended maintenance in order to determine whether the item has been properly maintained or may wear out sooner than expected due to inadequate care.

In determining the remaining useful life of a component, a certain level of continued preventative maintenance may be assumed. These maintenance assumptions should be explicitly stated so that proper maintenance can be continued through the component's remaining life.

The remaining life of a component implicitly specifies the year in which it may be repaired or replaced. The **effective age** of a component is the difference between the component's useful life (UL) and remaining useful life (RUL). A budget timeline can be used to show the replacement year for each component. This timeline can serve as a schedule for expected replacement of components and can be updated or changed when the physical analysis is updated, or as components last for shorter or longer periods than expected.

Sample Replacement Schedule

Component	Age in Years as of 12/31/2018 (Effective Age)	Estimated Useful Life (UL)	Estimated Remaining Useful Life (RUL)	Year to Replace
Stormwater management facility	3	5	2	2021
Paving (slurry coat)	4	7	3	2022
Roofing (wood shingle)	11	15	4	2023

Determining Replacement Cost

Replacement costs can be obtained from manufacturers or their representatives for some items, and from local licensed contractors on others. It is important to remember that the cost of component replacement should also include the cost of removing the existing component, along with the cost of obtaining permits and compliance with local building requirements, if applicable. It is also important to take into consideration that some existing components may be outdated and may not meet current code requirements. These components may need to be replaced with newer products that comply with code requirements, which may factor into replacement cost.

There are a number of recognized cost estimating manuals available with pricing information that can be used. Cost estimates are generally comparable among manuals for the same geographic area, so there is less need to consult multiple manuals for replacement costs than for estimates for useful life. However, there are some considerations to factor in when using these manuals to determine costs. The majority of professionals performing reserve studies for associations obtain cost estimates from a database based on the experience of these professionals. Cost estimates derived from this data may vary significantly from estimates based on manuals alone. Accordingly, associations performing their own study may want to obtain additional supporting data for their manual cost estimates from other sources, such as contractors, material suppliers, etc. This collection of data should then be considered in conjunction with the results of an inspection by a reasonably qualified person when making a final determination of replacement cost.

It is important to determine the specific geographic area for which the manual offers a cost average. If a manual has national averages, it may underestimate the cost of labor in certain areas, such urban areas. It is also important to determine the base year in which the manual's cost estimates were made. The current replacement cost for components is not shown in the manual, and should be adjusted for ***inflation*** since the time cost data was obtained.

Documenting Maintenance Assumptions

An important adjunct to determining UL and RUL of a component is to document the type and schedule of maintenance that is assumed for the component to survive that life. For example, if the 20-year life expectancy of a roof is based upon annual cleaning of the roof and gutters, the association will be able to take action to help ensure that all the roofs will indeed last. Documentation of maintenance assumptions can lead to improved maintenance throughout the project and thereby lower replacement costs. On the other hand, ignoring maintenance assumptions, or improper maintenance, can put the replacement schedule and costs in jeopardy.

A properly prepared physical analysis will lead to a better maintenance program for the association. Clear and concise maintenance suggestions are a useful supplement to a

professionally prepared physical analysis. These suggestions may save more than the cost of the original study on future repairs and replacements.

Using Component Data to Develop the Funding Analysis

Once charts of replacement schedule and future replacement costs are completed, the physical analysis is finished. The next step is to determine how much will be spent in each year for all components, and that step is part of the financial analysis.

Conducting a Financial Analysis

The goals of a **financial analysis** are to (i) establish **funding goals**; (ii) identify annual funding requirements; and (iii) disclose limitations and assumptions. Once the estimated useful life, estimated remaining life, and estimated current replacement costs of components are identified, the association is ready to develop a plan for funding the **reserve account**.

In preparing the **funding plan**, the association will have to make decisions about the amount of current assessments and the need for **special assessments**, balanced against projected liability. The financial viability of the association will depend a great deal upon the ability of the association to replace components as they wear out, and not to defer major maintenance items.

A product of the financial analysis process is the development of a funding plan (**cash flow** forecast or projection) to estimate future reserve cash receipts and disbursements. This is most easily presented in a spread sheet format. All supporting assumptions and methodology should be carefully documented.

The major steps in conducting a financial analysis are:

1. Obtain component information (from physical analysis).
2. Determine funding goal.
3. Calculate replacement fund liability.
4. Identify reserve account asset (cash balance).
5. Estimate annual association reserve fund income (from regular assessments).
6. Project expenditures and reserve fund needs, including regular and special assessments.
7. Prepare statement of limitations and assumptions.
8. Disclose reserve study information in association budget.

As an association completes these steps, the governing board will make major policy decisions. Professionals may be able to advise the governing board on key decisions, but it is important for the governing board to understand each of these decisions, since they independently affect the overall results of the funding plan. Because the amount of regular assessments and the need for

special assessments should be indicated in the plan, these decisions will affect monthly costs and property values.

Determine Funding Goal

Determination of the funding strategy, including establishment of the funding goal, is one of the most important fiscal decisions to be made by the governing board. The association budget should clearly indicate estimated revenues and expenses, describe the funding goal, and indicate current status in meeting the goal.

The funding plan should show the funds required to replace each component as it comes to the end of its useful life, and indicate how the association will fund the replacements. The association should decide how much should be raised through regular assessments for the reserve account each year, and how much should be raised by special assessment, if any. In addition, the association should consider how much cash will remain in the reserve account at the end of the planning period relative to the projected balance needed at that date.

Associations will have to make difficult policy choices in determining the funding goal. Many associations underfund reserves. This is due to lack of attention to reserve budgets in the past, and underestimation of replacement costs. An ideal goal for an association is to eliminate any *deficit* or shortage in reserve fund by building up the reserve fund to where the cash in the replacement reserve account is at least equal to the estimated value of accumulated wear of all major components. However, this goal may not be within reach of many associations in the short term, except through special assessments.

Funding Models

There are at least four basic funding models. All of these funding models have appropriate application. Furthermore, if done correctly, all of these models adequately fund the reserves.

- **Full Funding Model** – (Also called the Component Method.) This is the most conservative funding model. It funds each component as its own line item budget. This method is required in some states; however, Virginia does not require this method. The goal of this model is to attain and maintain the reserves at or near 100%. For example, if a community has a component with a 10-year life and a \$10,000 replacement cost, it should have \$3,000 set aside for its replacement after three years. In this case, \$3,000 equals full funding. Note that this model may not account for inflation.
- **Baseline Funding Model** – (Also called a Minimum Funded Model.) The goal of this model is to keep the reserve cash balance above zero. This means that at any time during the funding period the *reserve balance* does not drop below zero dollars.

This is the least conservative model. An association using this model must understand that even a minor reduction in a component's remaining useful life can result in a deficit in the reserve cash balance. Associations can implement this model more safely by conducting annual reserve updates that include field observations.

- **Threshold Funding Model** – (Also called the Cash Flow Method.) This model is based on the Baseline Funding concept. However, in this model the minimum cash reserve balance is established at some predetermined dollar amount. Associations should take into consideration that depending on the mix of common area or common elements major components this model may be more or less conservative than the fully funded model.
- **Statutory Funding Model** – This model is based on local statutes. To use it, associations set aside a specific minimum amount of reserves as required by statutes. At this time, Virginia statutes are silent on which funding model an association may choose.

Each of the funding models depends on an analysis of cash flows into and out of the reserve fund over the next 30 years. Assessment calculations are then made sufficient to reach the governing board's funding goals.

An association may wish to include information in a reserve study report about full funding to provide in effect a funding measuring stick for the association.

Calculate the Reserve Deficit

The association should employ the ***accrual method*** to estimate fund contributions and expenses. This will ensure payments to the reserve account remain level, and that sufficient funds will be available when expenses come due. With respect to revenues, this estimate includes regular and special assessments, as well as the after-tax ***interest*** income earned on accumulated cash reserves. Expenses can be accrued by spreading the eventual replacement cost of each component over its total useful life or obtaining an estimate of annual component wear. For instance, if a component currently valued at \$10,000 has a useful life of ten years, then one can estimate the annual wear, or the annual provision for the replacement fund, at \$1,000. By year five, this component would then have accrued a liability of \$5,000, assuming no inflation. (If the association fully funded its reserves, then this \$5,000 would already be in the reserve account by the end of the fifth year.)

After estimated revenues and expenses are established, this information can be used to calculate the required estimated reserves for components, and calculate any deficit or shortage in the reserve fund.

Begin by determining the ***accrued fund balance*** for each component. This can be calculated according to the following formula: Replacement Cost divided by Useful Life (UL) times Effective Age. For example, consider a roofing component with a replacement cost of \$30,000, a useful life of 15 years, and an effective age of 11 years:

$$\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age}$$



$$\frac{\$30,000}{15} \times 11 = \$2,000 \times 11 = \$22,000$$

Analyze each component in this manner, and then total together the accrued fund balance for components to determine the projected reserve fund balance. Then determine the reserve deficit by calculating the difference between the projected reserve fund balance and the estimated cash balance in the reserve fund. Once the reserve deficit (if any) is established, this information can be used to determine the amount of reserve deficit per lot or unit. In addition, the reserve balance funding percentage can be determined.

Component Replacement	Replacement Cost	Useful Life (UL) (years)	Effective Age (years)	Desired Fund Balance
Stormwater management facility	\$10,000	5	3	\$6,000
Paving	\$14,000	7	4	\$8,000
Roofing	\$30,000	15	11	\$22,000
Total Reserve Balance (current)				\$36,000
Estimated Cash Reserves (current)				\$22,000
Reserve Deficit (current)				\$14,000
Reserve Deficit per unit (\$14,000 ÷ 35 units)				\$400
Percentage of Funding				61%

$$\text{Desired Fund Balance} = \text{Replacement Cost/Useful Life (UL)} \times \text{Effective Age}$$

$$\text{Reserve Deficit} = \text{Total Reserve Balance} - \text{Estimated Cash Reserves}$$

$$\text{Percentage Funding} = \text{Estimated Cash Reserves} / \text{Reserve Deficit} \times 100$$

Although this approach is relatively simple, there are challenges posed by the fact that it does not factor the effects of interest or of inflation. Interest rates and inflation play a significant role in whether a reserve fund can meet its goals. An alternative reserve deficit model, which does take into account interest and inflation, is as follows⁴:

$$\text{Desired Balance} = \left(\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age} \right) + \left(\frac{\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age}}{(1 + \text{Interest Rate})^{\text{Remaining Life (RUL)}}} \right) - \left(\frac{\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age}}{(1 + \text{Inflation Rate})^{\text{Remaining Life (RUL)}}} \right)$$

Assuming an inflation rate of 3% and interest rate of 5% after taxes, the following are calculated.

Component Replacement	Replacement Cost	Useful Life (UL) (years)	Effective Age (years)	Desired Fund Balance
Stormwater management facility	\$10,000	5	3	\$5,787
Paving	\$14,000	7	4	\$7,590
Roofing	\$30,000	15	11	\$22,553
Total Reserve Balance (current)				\$33,930
Estimated Cash Reserves (current)				\$22,000
Reserve Deficit (current)				\$11,930
Reserve Deficit per unit (\$11,930 ÷ 35 units)				\$340
Percentage of Funding				65%

This approach, though more complicated, may be more reflective of the true amount of the reserve deficit (assuming the interest and inflation rates are accurate). In most cases, the difference between these approaches is not material; however, with some mixes of common area or common elements major components the difference can be quite noticeable and failure to properly take interest and inflation into account can unfairly lead to unrealistically high calculations of the reserve deficit.

Many associations take the approach of an ***unfunded & special assessment model***. The association does not have reserve balances that will cover expected replacement costs, and the only recourse is to schedule special assessments to cover component replacement costs when they are due. Lack of information about needed special assessments can pose a problem for owners. One-time costs impose an additional financial burden on owners, and can be a considerable hardship on those with limited or fixed incomes who may be unable to pay. This

⁴ See Appendix H for more detail on calculating using this formula.

approach is the riskiest, and could jeopardize the financial viability of the association if assessments cannot be raised when needed.

Another approach is a ***mixed model*** in which the cash needs for replacement of components are met through a combination of regular and planned special assessments. The degree to which an association can meet its cash needs through regular as opposed to special assessments may be an indicator of the association's financial viability.

When considering an alternative source of funding, such as a special assessment, the governing board should refer to the community's governing documents and applicable law to ensure the association has the authority to impose assessments to cover component replacement costs that may come due.

The association's choice of the funding goal or strategy will have a direct effect on the cash required of each individual owner. The strategy, and the degree to which the association has funded its reserves, should affect property value as well. (If an association shows a \$5,000 unfunded reserve deficit per unit, this amount reasonably should be reflected in the sales price.)

Estimate Association Reserve Fund Income

Ideally, the replacement reserve account should be built through regular (usually monthly) assessments paid by association members. A specific dollar amount of regular association payments should be earmarked for reserves, and deposited into a reserve account as they are collected. Financing of replacement reserves from regular assessments is desirable. First, it spreads the responsibility for replacements over time, rather than allocating costs to owners who happen to be in the association in the year a particular component comes due for repair or replacement. This funding approach provides a more equitable distribution of the costs of aging components. Second, it provides individual owners with more certainty as to the true costs of the property.

Income from regular assessments should be calculated for each year, based on the number of lots or units, and the level assessment per lot/unit. In communities with several rates for different types or sizes of units, the expected income should be calculated for each class of unit and then added. Assessment increases, if any, should be estimated by year. A method for calculating the amount to contribute to the reserve account follows. Under normal economic circumstances this approach should yield a good approximation. However, associations may wish to obtain the assistance of a professional firm to fine tune estimates to take into account inflation and interest rates.

Component	Replacement Cost	Estimated Useful Life (UL) (years)	Annual Contribution
Stormwater management facility	\$10,000	5	\$2,000
Paving	\$14,000	7	\$2,000
Roofing	\$30,000	15	\$2,000
Total Annual Contribution			\$6,000
Add 10% for Contingencies			\$600
Total Annual Contribution			\$6,600
Number of Units in Community			48
Annual Contribution per Unit			\$138
Monthly Contribution per Unit			\$11.46

State law requires an association's governing board to review reserve study results at least annually to determine if reserves are sufficient – according to the governing board, and to make adjustments necessary to maintain reserves. Changes in interest rates or inflation rates, or unusual changes in the prices of components, may make it advisable to raise or lower the monthly amount assessed to fund reserves. These periodic “course corrections” can promote the stability of the reserve account, and decrease the likelihood of financial shocks when the next reserve study is performed.

Project Expenditures and Reserve Funding Needs

The physical analysis provides the estimates for expected expenditures by year for each component. Adding these component requirements together, by year, gives the estimate of needed funds over time. Association members should be aware of the limitations of expenditure forecasting and of the reality that the overall funding plan is only as good as the initial estimates of replacement costs and the time of replacement needs.

An important policy issue for a governing board is the decision over whether to use replacement costs, or estimated future costs. Use of an inflation rate will generally result in higher estimates of future costs. If the governing board uses replacement costs, it is essential the board revise the plan annually based upon updated current replacement costs, plus currently required or anticipated expenditures. The annual cost for each component would be calculated by dividing the unfunded replacement cost by the remaining useful life. This approach is valid only if repeated each year.

If the board chooses to use an inflation rate, it would apply an average long-term cost inflation rate to all components from the time of the study until the year of replacement (based on recent average component cost data). To keep this plan current, it is important to annually review and update projected expenditures, inflation factors and other assumptions. As with the replacement cost approach, the inflation rate approach is valid only if repeated each year.

There are several ways to select an inflation rate for estimating component costs for future years. These include: (i) Federal Bureau of Labor Statistics; (ii) published information from construction cost estimating companies; and (iii) Marshall & Swift. The interest rate assumption is an important decision for the governing board, and should be explicitly disclosed in the financial analysis. Because of their effect on estimating future costs, replacement cost information and inflation rate assumptions should be reviewed annually, and the projections adjusted as necessary.

Following is a sample chart showing calculations for future replacement costs. In a real situation, it may be necessary to add additional years of inflation in order to account for old pricing information. The sample chart assumes the pricing information on all components is up-to-date.

Component	Quantity & Units	Unit Cost	Replacement Cost (2019)	Year to Replace	Future Cost to Replace
Painting, exterior stucco	15,875 sq. ft.	.63	\$10,000	2021	\$10,941
Paving, slurry coat	35,000 sq. ft.	.40	\$14,000	2022	\$16,022
Roofing, wood shingle	10,715 sq. ft.	2.80	\$30,000	2023	\$35,913
(Future replacement cost was calculated with an annual 4.6% inflation rate.)					

Estimate Interest Earnings of Reserve Account Over Financial Analysis Period

Reserve funds deposited in certificates of deposit or money market accounts will generate interest income to increase the reserves. For forecasting purposes, it is necessary to choose an interest rate. For planning purposes, a lower interest rate is more conservative than a higher one. Interest rates can be pegged to current bank rates or CD rates. Income from the reserve and operating accounts is taxable to an association, even if the association is established as a non-profit organization. A governing board should adjust the interest rate assumption to account for applicable federal and state taxes.

Though it may be difficult to accurately project future component cost increases or future interest earned on reserve cash balances, it is nonetheless important to use these factors for calculations in the financial analysis, and to update them each year. This is particularly true for associations that have chosen to rely in part on special assessments.

As component replacement comes due in future years, it will draw against reserve funds. The initial reserve account, augmented by regular contributions from routine homeowner assessment payments, should provide sufficient funding to pay for replacements as they are needed. In some cases, though, the reserve account will not be enough. The cash flow analysis will identify instances where expenditure projections for a given year exceed projected reserve cash balances. In these cases, additional funds from special assessments (or other sources, if any) would be needed to increase the reserve accounts to desired levels.

Some replacement expenses will be impossible to estimate. This may be due to unexpected breakage or destruction, failure in a “life-of-the-project” system, reduced useful life of a component, or other unexpected component cost. A line item in the cost estimates might be established as a contingency. This amount might be limited to 3% to 5% of the first-year budget in a new community. In a conversion, or established communities with incomplete documentation, larger contingency levels may be necessary. One useful way to establish estimates for contingency funding in established communities is to review prior year spending for contingency-type replacements or continuing repairs. For instance, if there is routine work done annually on underground utilities, then some funds for expected annual levels might be budgeted under the contingency category.

Appendix F contains a sample financial analysis which summarizes these income and cost concepts. The rows of the spreadsheet show individual component costs and association income sources. The columns show the years included in the financial analysis. The sample assumes a funding plan period of 30 years and mixed funding model which uses regular and special assessments to maintain a positive cash balance. Because the model is not fully funded, inflation factors are employed in determining component costs.

Statement of Limitations and Assumptions

The funding analysis should document (i) all limitations to the estimate, (ii) assumptions made in order to conduct the estimates, (iii) the model used to make the estimates.

Disclose Reserve Study Information in the Annual Budget; Updating

An association, once it has successfully completed a reserve study (both physical and financial analysis), can use the resulting information in its annual budget. Indeed, state law requires that to the extent a reserve study indicates the need for an association to budget reserves, the budget must include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components;
2. The current amount of accumulated cash reserves set aside, to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund

for the fiscal year (as of the beginning of the fiscal year for which the budget is prepared);

3. A statement describing the procedures used for estimation and accumulation of cash reserves; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

An association governing board is required to review the results of the reserve study at least annually to determine if reserves are sufficient, and make appropriate adjustments to ensure reserves are maintained. How often, though, does the reserve study need to be updated?

Annual updates of the financial analysis can be carried out at the same time as preparation of the operating budget, and can call for required adjustments within the original planning period. The assumptions in the reserve study (e.g. remaining life and cost of components) should be reviewed and updated as necessary. The frequency of updates of component data will depend on the soundness of the original data and estimates, the preparer's recommendations, and the association's ability to adequately maintain its components. Even though the methodology calls for a financial study covering a time frame of twenty years or more, annual planning and periodic reviews of the reserve study can rely on updated estimates.

Hiring a Professional to Perform a Reserve Study

Members of an association governing board must decide whether to conduct a reserve study by themselves, or hire qualified professionals to perform the task. Some associations elect to hire outside consultants to perform certain tasks, but not others. In making this decision, a governing board should consider several factors, to include:

1. The level of expertise within the board or the community for this kind of study;
2. The willingness of board or community members to volunteer their time;
3. The cost of hiring outside consultants to conduct the reserve study;
4. Whether a previous reserve study is available for use as a guideline;
5. The quality of existing documentation of components and replacement costs;
6. The association's previous history regarding special assessments;
7. The current financial state of the association's reserve account; and
8. The degree to which board members can be held personally liable for a defective reserve study.

If the governing board wishes to have all or part of the study performed by professionals, it must still make several important decisions. These include interviewing and hiring the consultants, assisting them in obtaining community data, reviewing the **work product** delivered by the consultants, and following up on consultants' recommendations for the reserve funding

account. Should a governing board elect to use consultants, the following should be established by the board:

- Identification of common area or common elements components, exclusive use components, quasi-structural components, and life-of-the-project components (with the assistance of association management);
- The interest rate for estimating income earned on reserve balances; and
- The funding goal of the reserve study, including the degree to which reserves are to be funded by annual assessments, and the need for special assessments.

As the governing board is accountable for quality of the study itself, it should carefully specify the work tasks and carefully review potential consultants with respect to previous experience, price, and recommendations from other communities. Following are some or all of the work tasks that may be performed by professionals.

Physical Analysis Products for Consultants

- Quantification of components;
- Documentation of maintenance assumptions and recommendations;
- Identification of useful life and remaining life of components, and replacement year; and
- Estimation of replacement cost in current and future dollars.

Financial Analysis Products for Consultants

- Spreadsheet modeling of reserve funding, and development of solution(s) meeting the funding goals of the association;
- Calculation of cash balance of reserve account by year;
- Estimation and explanation of reserve deficit;
- Recommendation of needed increases in reserve portion of assessment;
- Preparation of statement of limitations and assumptions of reserve analysis; and
- Preparation of reserve study information for association budget.

After determining the work tasks, the board must select the consultants or contractors, if any, who will perform all or part of the work. Possible outcomes of this decision-making process include:

- Hiring an independent engineering, appraisal, or construction cost-estimating firm to perform the physical analysis, and hiring an independent accountant experienced with community associations to produce the financial analysis and association budget;
- Hiring an organization with staff expertise to perform an integrated component and financial analysis;

The type of assistance that will be needed depends upon the nature of the product desired, the budget, and expertise available to the governing board. The governing board is ultimately responsible for the reserves study disclosures. The board should also consider its potential legal liability if the study does not meet statutory information requirements.

Recommendations from other community associations can often be helpful in determining which company or companies to hire for the reserve study. Organizations of CICs and related professionals can also be a resource to find qualified professionals. It is helpful to talk with people who have worked with any firm or consultant under consideration and to examine samples of related work.

The governing board should interview several companies and obtain samples of their work in order to get a sense of each company's qualifications, experience, and pricing structures. Appendix E contains partial lists of questions a governing board may use to ask a reserve study preparer as part of the interview process. The questions may be used in interviews with potential consultants, or used a written ***request for proposal***, along with a clear specification of the work tasks to be performed. Answers to these questions, as well as price, should help in the selection of any needed professionals.

Information the Governing Board Should Provide

Before it can provide a cost estimate, a consulting firm will need information from the governing board regarding the community and the scope of work. The governing board should provide potential consultants with the following:

- The size of the community – area and number of lots/units;
- Types of improvements in the common area/common elements – pools, clubhouses, etc.;
- Which portions of the reserve study the consulting firm is being asked to perform;
- A list and definition of major components;
- A statement of board policy about major components for which it is not requesting an estimate of replacement costs;
- Maintenance records, warranties, and other information regarding the condition of components;
- Information on planned changes or additions to major components;
- Copy of as-built construction drawings, if they exist;
- A copy of the previous reserve study, if one was conducted;
- Estimated replacement cash balance at beginning of next (nearest) fiscal year;
- A copy of the current or proposed association budget;
- A board estimate of long-term interest rate to be earned on reserve account cash balance; and
- Anticipated reserve expenses for the remaining year.

In some cases, a consulting firm might need further information to make its estimate. It will save time to ascertain a company's information requirements before the actual interview takes place.

Potential Problems

Many associations, especially if conducting a reserve study for the first time, may find they are lacking certain information that is necessary to complete the study. If so, they will need to retrieve and document this information either before the study is begun, or during the study itself. Here is a list of the more common problems that can be addressed during the course of doing a reserve study:

- The association does not have an established master list of major components;
- If a master list of components exists, it does not include all significant common area/common elements components listed in the governing documents or developer's drawings;
- Information on remaining life and current replacement cost has not been prepared for all major components;
- The association does not have a documented maintenance schedule and related assumptions for each major component;
- "Life-of-the-project" components are not mentioned in assumptions, or included in reserve budgeting;
- The association budget does not contain reserve study information or assumptions;
- There is no policy to distinguish reserve expenditures from operating expenses;
- No reserve funding goal has been established;
- There is no separate bank account(s) for reserve funds;
- No previous physical analysis or financial analysis has been conducted;
- The reserve deficit is staying constant or increasing over time;
- Special assessments are required to fund major repairs; and
- Current income from assessments does not equal or exceed dollar value of annual component wear.

Resources Used in Developing the Guidelines

California Department of Real Estate. (August 2010). *Reserve Study Guidelines for Homeowner Association Budgets*. State of California.

Community Associations Institute. (2018). *Reserve Specialist (RS) Designation: National Reserve Study Standards*. Community Associations Institute. <https://www.caionline.org/pages/default.aspx>.

Foundation for Community Association Research (FCAR). (2014). *Best Practices: Reserve Studies/Management*. Foundation for Community Association Research. Falls Church, Virginia.

Moss, J. R. (2018). *Virginia Common Interest Communities: A Resource for Volunteer Leaders, Members, Managing Agents and Business Partners* (2nd ed.). Jeremy Moss.

Nevada Department of Business and Industry. (2003). *Reserve Study Guidelines*. Prepared by the Lied Institute for Real Estate Studies. UNLV. State of Nevada.

Additional Resources

Community Associations Institute. (1994). *A Guide to Replacement Reserve Funds and Long-Term Reserve Funding*. Community Associations Institute. Falls Church, Virginia.

Community Associations Institute. (2013). *Reserve Funds: How and Why Community Associations Invest Assets*. 2nd Edition. CAI Press. Falls Church, Virginia.

Appendix A – Excerpts from Code of Virginia

Effective Until September 30, 2019	
§ 55-79.41	Condominium Act – Definitions
§ 55-79.93:1	Condominium Act - Annual budget; reserves for capital components
§ 55-426	Virginia Real Estate Cooperative Act – Definitions
§ 55-471.1	Virginia Real Estate Cooperative Act – Annual budget; reserves for capital components
§ 55-509	Property Owners’ Association Act – Definitions
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§ 55.1-1800	Property Owners’ Association Act – Definitions
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§ 55.1-1900	Virginia Condominium Act - Definitions
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§ 55.1-2100	Virginia Real Estate Cooperative Act – Definitions
§ 55.1-2147	Virginia Real Estate Cooperative Act – Annual budget; reserves for capital components

§ 55-79.41. Definitions

When used in this chapter:

"Capital components" means those items, whether or not a part of the common elements, for which the unit owners' association has the obligation for repair, replacement or restoration and for which the executive organ determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation and/or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Common interest community manager" means the same as that term is defined in § [54.1-2345](#).

"Condominium" means real property, and any incidents thereto or interests therein, lawfully submitted to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" is a collective term referring to the declaration, bylaws, and plats and plans, recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification accompanying a condominium instrument and recorded simultaneously therewith shall be deemed an integral part of that condominium instrument. Any amendment or certification of any condominium instrument shall, from the time of the recordation of such amendment or certification, be deemed an integral part of the affected condominium instrument, so long as such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit. (Cf. the definition of unit, *infra*.)

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium within the meaning of this chapter.

"Conversion condominium" means a condominium containing structures which before the recording of the declaration, were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a building site; that is to say, a portion of the common elements, within which additional units and/or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium, which portion may be converted into one or more units and/or common elements, including but not limited to limited common elements in accordance with the provisions of this chapter. (Cf. the definition of unit, *infra*.).

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of his or its interest in a condominium unit not previously disposed of, including an institutional lender which may not have succeeded to or accepted any special declarant rights pursuant to § 55-79.74:3; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), the term "declarant" shall not include an institutional lender which acquires title by foreclosure or deed in lieu thereof unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55-79.74:3. The term "declarant" shall not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but shall not include the transfer or release of security for a debt.

"Electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

"Executive organ" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the unit owners' association.

"Expandable condominium" means a condominium to which additional land may be added in accordance with the provisions of the declaration and of this chapter.

"Financial update" means an update of the financial information referenced in subdivisions C 2 through C 7 of § 55-79.97.

"Future common expenses" means common expenses for which assessments are not yet due and payable.

"Identifying number" means one or more letters and/or numbers that identify only one unit in the condominium.

"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts including but not limited to real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending *ab solo usque ad coelum*. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter

of a legally sufficient description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be identified with reference to established datum.

"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold interests due to expire naturally at the same time. A condominium including leased land, or an interest therein, within which no units are situated or to be situated shall not be deemed a leasehold condominium within the meaning of this chapter.

"Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

"Meeting" or "meetings" means the formal gathering of the executive organ where the business of the unit owners' association is discussed or transacted.

"Nonbinding reservation agreement" means an agreement between the declarant and a prospective purchaser which is in no way binding on the prospective purchaser and which may be canceled without penalty at the sole discretion of the prospective purchaser by written notice, hand-delivered or sent by United States mail, return receipt requested, to the declarant or to any sales agent of the declarant at any time prior to the formation of a contract for the sale or lease of a condominium unit or an interest therein. Such agreement shall not contain any provision for waiver or any other provision in derogation of the rights of the prospective purchaser as contemplated by this subsection, nor shall any such provision be a part of any ancillary agreement.

"Offer" means any inducement, solicitation, or attempt to encourage any person or persons to acquire any legal or equitable interest in a condominium unit, except as security for a debt. Nothing shall be considered an "offer" which expressly states that the condominium has not been registered with the Common Interest Community Board and that no unit in the condominium can or will be offered for sale until such time as the condominium has been so registered.

"Officer" means any member of the executive organ or official of the unit owners' association.

"Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value, may, but need not, be considered substantially identical within the meaning of this subsection. If par value is stated in terms of dollars, that statement shall not be deemed to reflect or control the sales price or fair market value of any unit, and no opinion, appraisal, or fair market transaction at a different figure shall affect the par value of any unit, or any undivided interest in the common elements, voting rights in the unit owners' association or liability for common expenses assigned on the basis thereof.

"Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

"Purchaser" means any person or persons, other than a declarant, who acquire by means of a voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options, of less than 20 years or (ii) as security for a debt.

"Resale certificate update" means an update of the financial information referenced in subdivisions C 2 through C 9 and C 12 of § 55-79.97. The update shall include a copy of the original resale certificate.

"Settlement agent" means the same as that term is defined in § 55-525.16.

"Size" means the number of cubic feet, or the number of square feet of ground and/or floor space, within each unit as computed by reference to the plat and plans and rounded off to a whole number. Certain spaces within the units including, without limitation, attic, basement, and/or garage space may, but need not, be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium, and so long as that basis is described in the declaration.

"Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group of persons that becomes a declarant, to (i) expand an expandable condominium, (ii) contract a contractable condominium, (iii) convert convertible land or convertible space or both, (iv) appoint or remove any officers of the unit owners' association or the executive organ pursuant to subsection A of § 55-79.74, (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer or the executive organ, or (vi) maintain sales offices, management offices, model units and signs pursuant to § 55-79.66.

"Unit" means a portion of the condominium designed and intended for individual ownership and use. (Cf. the definition of condominium unit, *supra*.) For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection (d) of § 55-79.62.

"Unit owner" means one or more persons who own a condominium unit or, in the case of a leasehold condominium, whose leasehold interest or interests in the condominium extend for the entire balance of the unexpired term or terms. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person or persons holding an interest in a condominium unit solely as security for a debt.

1974, c. 416; 1975, c. 415; 1981, c. 480; 1982, c. 545; 1991, c. 497; 1993, c. 667; 1996, c. 977; 2001, c. 715; 2002, c. 459; 2003, c. 442; 2008, cc. 851, 871; 2015, cc. 93, 410.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-79.83:1. (Repealed effective October 1, 2019) Annual budget; reserves for capital components

A. Except to the extent provided in the condominium instruments, the executive organ shall, prior to the commencement of the fiscal year, make available to unit owners either (i) the annual budget of the unit owners' association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the condominium instruments, the executive organ shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55-79.41;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive organ deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § 55-79.41;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2002, c. 459;2019, cc. 33, 44.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-426. Definitions

When used in this chapter or in the declaration and bylaws, unless specifically provided otherwise or the context requires a different meaning, the following terms shall have the meanings respectively set forth:

"Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director or employer of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (i) is a general partner, officer, director or employer of the person; (ii) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

"Allocated interests" means the common expense liability and the ownership interest and votes in the association allocated to each cooperative interest.

"Association" or "proprietary lessees' association" means the proprietary lessees' association organized under § 55-458.

"Capital components" means those items, whether or not a part of the common elements, for which the association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of a cooperative other than the units.

"Common expenses" means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

"Common expense liability" means liability for common expenses allocated to each cooperative interest pursuant to § 55-444.

"Conversion building" means a building that at any time before creation of the cooperative was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

"Cooperative" means real estate owned by an association, each of the members of which is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit.

"Cooperative interest" means an ownership interest in the association coupled with a possessory interest in a unit under a proprietary lease. For purposes of this act, a declarant is treated as the

owner of any cooperative interests or potential cooperative interests to which allocated interests have been allocated pursuant to § 55-444 until that cooperative interest has been created and conveyed to another person.

"Declarant" means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of his or its cooperative interest not previously disposed of; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of a cooperative under Article 5 (§ 55-496 et seq.) of this chapter.

"Declaration" means any instruments, however denominated, that create a cooperative and any amendments to those instruments.

"Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a cooperative; (ii) create units, common elements, or limited common elements within a cooperative; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a cooperative.

"Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a cooperative interest, but does not include the transfer or release of a security interest.

"Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

"Identifying number" means a symbol or address that identifies only one unit in a cooperative.

"Leasehold cooperative" means a cooperative in which all or a portion of the real estate is subject to a lease, the expiration or termination of which will terminate the cooperative or reduce its size.

"Limited common element" means a portion of the common elements allocated by the declaration or by operation of § 55-439 paragraph 2 or 4 for the exclusive use of one or more but fewer than all of the units.

"Master association" means an organization described in § 55-456, whether or not it is also an association described in § 55-458.

"Offering" means any advertisement, inducement, solicitation or attempt to encourage any person to acquire any interest in a cooperative interest, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a cooperative not located in the Commonwealth, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the cooperative is located.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity. In the case of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.

"Proprietary lease" means an agreement with the association pursuant to which a proprietary lessee has a possessory interest in a unit.

"Proprietary lessee" means a person who owns a cooperative interest, other than as security for

an obligation, and the declarant with respect to cooperative interests or potential cooperative interests to which allocated interests have been allocated pursuant to § 55-444 until that cooperative interest has been created and conveyed to another person.

"Purchaser" means any person, other than a declarant or a person in the business of selling cooperative interests for his own account, who by means of a voluntary transfer acquires or contracts to acquire a cooperative interest other than as security for an obligation.

"Real estate" means any leasehold or other estate or interest in, over or under land, including structures, fixtures, and other improvements and interests which by custom, usage or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

"Residential purposes" means use for dwelling or recreational purposes, or both.

"Security interest" means an interest in real or personal property, created by contract or conveyance, which secures payment or performance of an obligation. "Security interest" includes a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

"Special declarant rights" means rights reserved for the benefit of a declarant to: (i) complete improvements described in the public offering statement pursuant to subdivision A 2 of § 55-478 ;(ii) exercise any development right pursuant to § 55-446;(iii) maintain sales offices, management offices, signs advertising the cooperative, and models; (iv) use easements through the common elements for the purpose of making improvements within the cooperative or within real estate which may be added to the cooperative; (v) make the cooperative part of a larger cooperative or group of cooperatives; (vi) make the cooperative subject to a master association as specified in § 55-456;or (vii) appoint or remove any officer of the association, any master association or any executive board member during any period of declarant control.

"Time share" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a cooperative or a specified portion thereof.

"Unit" means a physical portion of the cooperative designated for separate occupancy under a proprietary lease.

1982, c. 277; 2005, c. 436.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-471.1. (Repealed effective October 1, 2019) Annual budget; reserves for capital components

A. Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the declaration, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55-426;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitations:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § 55-426;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2005, c. 436; 2019, cc. 33, 44.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-509. Definitions

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Property Owners' Association Act.

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association, or a committee which is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as common area in the declaration.

"Common interest community" means the same as that term is defined in § 55-528.

"Common interest community manager" means the same as that term is defined in § 54.1-2345.

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part thereof is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, or on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance and/or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" shall not include a declaration of a condominium, real estate cooperative, time-share project or campground.

"Development" means real property located within this Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through A 9 of § 55-509.5. The update shall include a copy of the original disclosure packet.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through A 7 of § 55-509.5.

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown

on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Meeting" or "meetings" means the formal gathering of the board of directors where the business of the association is discussed or transacted.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Settlement agent" means the same as that term is defined in § [55-525.16](#).

1989, c. 679; 1991, c. 667; 1996, c. [618](#); 1998, c. [623](#); 2001, c. [715](#); 2002, c. [459](#); 2003, c. [422](#); 2008, cc. [851](#), [871](#); 2011, c. [334](#); 2015, cc. [93](#), [410](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55-514.1. (Repealed effective October 1, 2019) Annual budget; reserves for capital components

A. Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55-509;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include, without limitation:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § 55-509;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2002, c. 459; 2019, cc. 33, 44.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-1800. (Effective October 1, 2019) Definitions

As used in this chapter, unless the context requires a different meaning:

"Association" means the property owners' association.

"Board of directors" means the executive body of a property owners' association or a committee that is exercising the power of the executive body by resolution or bylaw.

"Capital components" means those items, whether or not a part of the common area, for which the association has the obligation for repair, replacement, or restoration and for which the board of directors determines funding is necessary.

"Common area" means property within a development which is owned, leased, or required by the declaration to be maintained or operated by a property owners' association for the use of its members and designated as a common area in the declaration.

"Common interest community" means the same as that term is defined in § [54.1-2345](#).

"Common interest community manager" means the same as that term is defined in § [54.1-2345](#).

"Declarant" means the person or entity signing the declaration and its successors or assigns who may submit property to a declaration.

"Declaration" means any instrument, however denominated, recorded among the land records of the county or city in which the development or any part of such development is located, that either (i) imposes on the association maintenance or operational responsibilities for the common area or (ii) creates the authority in the association to impose on lots, on the owners or occupants of such lots, or on any other entity any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots, or the common area. "Declaration" includes any amendment or supplement to the instruments described in this definition. "Declaration" does not include a declaration of a condominium, real estate cooperative, time-share project, or campground.

"Development" means real property located within the Commonwealth subject to a declaration which contains both lots, at least some of which are residential or are occupied for recreational purposes, and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration.

"Disclosure packet update" means an update of the financial information referenced in subdivisions A 2 through 9 of § [55.1-1809](#). The update shall include a copy of the original disclosure packet.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. Any term used in this definition that is defined in § [59.1-480](#) of the Uniform Electronic Transactions Act shall have the meaning set forth in such section.

"Financial update" means an update of the financial information referenced in subdivisions A 2 through 7 of § [55.1-1809](#).

"Lot" means (i) any plot or parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area, and (ii) a unit in a condominium association or a unit in a real estate cooperative if the condominium or cooperative is a part of a development.

"Lot owner" means one or more persons who own a lot, including any purchaser of a lot at a foreclosure sale, regardless of whether the deed is recorded in the land records where the lot is located. "Lot owner" does not include any person holding an interest in a lot solely as security for a debt.

"Professionally managed" means a common interest community that has engaged (i) a common interest community manager to provide management services to the community or (ii) a person as an employee for compensation to provide management services to the community, other than a resident of the community who provides bookkeeping, billing, or recordkeeping services for that community.

"Property owners' association" or "association" means an incorporated or unincorporated entity upon which responsibilities are imposed and to which authority is granted in the declaration.

"Settlement agent" means the same as that term is defined in § [55.1-1000](#).

1989, c. 679, § 55-509; 1991, c. 667; 1996, c. [618](#); 1998, c. [623](#); 2001, c. [715](#); 2002, c. [459](#); 2003, c. [422](#); 2008, cc. [851](#), [871](#); 2011, c. [334](#); 2015, cc. [93](#), [410](#); 2019, c. [712](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-1826. (Effective October 1, 2019) Annual budget; reserves for capital components

A. Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the declaration and unless the declaration imposes more stringent requirements, the board of directors shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55.1-1800 ;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the board of directors deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components defined in § 55.1-1800;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore capital components and the amount of the expected contribution to the reserve fund for that year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2002, c. 459, § 55-514.1; 2019, cc. 33, 44, 712.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-1900. (Effective October 1, 2019) Definitions

As used in this chapter, unless the context requires a different meaning:

"Capital components" means those items, whether or not a part of the common elements, for which the unit owners' association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of the condominium other than the units.

"Common expenses" means all expenditures lawfully made or incurred by or on behalf of the unit owners' association, together with all funds lawfully assessed for the creation or maintenance of reserves pursuant to the provisions of the condominium instruments.

"Common interest community manager" means the same as that term is defined in § [54.1-2345](#).

"Condominium" means real property, and any incidents to or interests in such real property, lawfully subject to this chapter by the recordation of condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a condominium within the meaning of this chapter unless the undivided interests in the common elements are vested in the unit owners.

"Condominium instruments" means, collectively, the declaration, bylaws, and plats and plans recorded pursuant to the provisions of this chapter. Any exhibit, schedule, or certification recorded with a condominium instrument shall be deemed an integral part of that condominium instrument. Once recorded, any amendment or certification of any condominium instrument shall be deemed an integral part of the affected condominium instrument if such amendment or certification was made in accordance with the provisions of this chapter.

"Condominium unit" means a unit together with the undivided interest in the common elements appertaining to that unit.

"Contractable condominium" means a condominium from which one or more portions of the submitted land may be withdrawn in accordance with the provisions of the declaration and of this chapter. If such withdrawal can occur only by the expiration or termination of one or more leases, then the condominium shall not be deemed a contractable condominium.

"Conversion condominium" means a condominium containing structures that before the recording of the declaration were wholly or partially occupied by persons other than those who have contracted for the purchase of condominium units and those who occupy with the consent of such purchasers.

"Convertible land" means a portion of the common elements within which additional units or limited common elements may be created in accordance with the provisions of this chapter.

"Convertible space" means a portion of a structure within the condominium that a declarant may convert into one or more units or common elements, including limited common elements, in accordance with the provisions of the declaration and this chapter.

"Declarant" means any person, or group of persons acting in concert, that (i) offers to dispose of its interest in a condominium unit not previously disposed of, including an institutional lender that may not have succeeded to or accepted any special declarant rights pursuant to § 55.1-1947; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of the condominium. However, for the purposes of clauses (i) and (iii), "declarant" does not include an institutional lender that acquires title by foreclosure or deed in lieu of foreclosure unless such lender offers to dispose of its interest in a condominium unit not previously disposed of to anyone not in the business of selling real estate for his own account, except as otherwise provided in § 55.1-1947. "Declarant" does not include an individual who acquires title to a condominium unit at a foreclosure sale.

"Dispose" or "disposition" refers to any voluntary transfer of a legal or equitable interest in a condominium unit to a purchaser, but does not include the transfer or release of security for a debt.

"Electronic means" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of such communication. Any term used in this definition that is defined in § 59.1-480 of the Uniform Electronic Transactions Act has the meaning set forth in that section.

"Executive board" means an executive and administrative entity, by whatever name denominated, designated in the condominium instruments as the governing body of the unit owners' association.

"Expandable condominium" means a condominium to which additional land may be added in accordance with the provisions of the declaration and this chapter.

"Future common expenses" means common expenses for which assessments are not yet due and payable.

"Identifying number" means one or more letters or numbers that identify only one unit in the condominium.

"Institutional lender" means one or more commercial or savings banks, savings and loan associations, trust companies, credit unions, industrial loan associations, insurance companies, pension funds, or business trusts, including real estate investment trusts, any other lender regularly engaged in financing the purchase, construction, or improvement of real estate, or any assignee of loans made by such a lender, or any combination of any of the foregoing entities.

"Land" is a three-dimensional concept and includes parcels with upper or lower boundaries, or both upper and lower boundaries, as well as parcels extending ab solo usque ad coelum. Parcels of airspace constitute land within the meaning of this chapter. Any requirement in this chapter of a legally sufficient description shall be deemed to include a requirement that the upper or lower boundaries, if any, of the parcel in question be identified with reference to established datum.

"Leasehold condominium" means a condominium in all or any portion of which each unit owner owns an estate for years in his unit, or in the land within which that unit is situated, or both, with all such leasehold interests due to expire naturally at the same time. A condominium including leased land, or an interest in such land, within which no units are situated or to be situated is not a leasehold condominium within the meaning of this chapter.

"Limited common element" means a portion of the common elements reserved for the exclusive use of those entitled to the use of one or more, but less than all, of the units.

"Nonbinding reservation agreement" means an agreement between the declarant and a prospective purchaser that is in no way binding on the prospective purchaser and that may be canceled without penalty at the sole discretion of the prospective purchaser.

"Offer" means any inducement, solicitation, or attempt to encourage any person to acquire any legal or equitable interest in a condominium unit, except as security for a debt. Nothing that expressly states that the condominium has not been registered with the Common Interest Community Board and that no unit in the condominium can or will be offered for sale until such time as the condominium has been so registered shall be considered an "offer."

"Officer" means any member of the executive board or official of the unit owners' association.

"Par value" means a number of dollars or points assigned to each unit by the declaration. Substantially identical units shall be assigned the same par value, but units located at substantially different heights above the ground, or having substantially different views, or having substantially different amenities or other characteristics that might result in differences in market value may be considered substantially identical within the meaning of §§ [55.1-1917](#) and [55.1-1918](#).

"Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

"Purchaser" means any person, other than a declarant, that acquires by means of a voluntary transfer a legal or equitable interest in a condominium unit, other than (i) a leasehold interest, including renewal options, of less than 20 years or (ii) as security for a debt.

"Settlement agent" means the same as that term is defined in § [55.1-1000](#).

"Size" means the number of cubic feet, or the number of square feet of ground or floor space, within each unit as computed by reference to the plat and plans and rounded to the nearest whole number. Certain spaces within the units, including attic, basement, or garage space, may be omitted from such calculation or partially discounted by the use of a ratio, so long as the same basis of calculation is employed for all units in the condominium and so long as that basis is described in the declaration.

"Special declarant rights" means any right reserved for the benefit of a declarant, or of a person or group of persons that becomes a declarant, to (i) expand an expandable condominium; (ii) contract a contractable condominium; (iii) convert convertible land or convertible space or both; (iv) appoint or remove any officers of the unit owners' association or the executive board pursuant to subsection A of § [55.1-1943](#); (v) exercise any power or responsibility otherwise assigned by any condominium instrument or by this chapter to the unit owners' association, any officer, or the executive board; or (vi) maintain sales offices, management offices, model units, and signs pursuant to § [55.1-1929](#).

"Unit" means a portion of the condominium designed and intended for individual ownership and use. For the purposes of this chapter, a convertible space shall be treated as a unit in accordance with subsection D of § [55.1-1925](#).

"Unit owner" means one or more persons that own a condominium unit or, in the case of a

leasehold condominium, whose leasehold interest in the condominium extends for the entire balance of the unexpired term. "Unit owner" includes any purchaser of a condominium unit at a foreclosure sale, regardless of whether the deed is recorded in the land records where the unit is located. "Unit owner" does not include any person holding an interest in a condominium unit solely as security for a debt.

1974, c. 416, § 55-79.41; 1975, c. 415; 1981, c. 480; 1982, c. 545; 1991, c. 497; 1993, c. 667; 1996, c. 977; 2001, c. 715; 2002, c. 459; 2003, c. 442; 2008, cc. 851, 871; 2015, cc. 93, 410; 2019, c. 712.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-1965. (Effective October 1, 2019) Reserves for capital components

A. Except to the extent provided in the condominium instruments, the executive board shall, prior to the commencement of the fiscal year, make available to unit owners either (i) the annual budget of the unit owners' association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the condominium instruments the executive board shall:

1. Conduct a study at least once every five years to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55.1-1900 ;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the unit owners' association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § 55.1-1900;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2002, c. 459, § 55-79.83:1; 2019, cc. 33, 44, 712.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-2100. (Effective October 1, 2019) Definitions

As used in this chapter or in the declaration and bylaws, unless provided otherwise or unless the context requires a different meaning:

"Affiliate of a declarant" means any person that controls, is controlled by, or is under common control with a declarant. A person "controls" a declarant if the person (i) is a general partner, officer, director, or employer of the declarant; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the declarant; (iii) controls in any manner the election of a majority of the directors of the declarant; or (iv) has contributed more than 20 percent of the capital of the declarant. A person "is controlled by" a declarant if the declarant (a) is a general partner, officer, director, or employer of the person; (b) directly or indirectly or acting in concert with one or more persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 20 percent of the voting interest in the person; (c) controls in any manner the election of a majority of the directors of the person; or (d) has contributed more than 20 percent of the capital of the person. Control does not exist if the powers described in this definition are held solely as security for an obligation and are not exercised.

"Allocated interests" means the common expense liability and the ownership interest and votes in the association allocated to each cooperative interest.

"Association" or "proprietary lessees' association" means the proprietary lessees' association organized under § 55.1-2132.

"Capital components" means those items, whether or not a part of the common elements, for which the association has the obligation for repair, replacement, or restoration and for which the executive board determines funding is necessary.

"Common elements" means all portions of a cooperative other than the units of such cooperative.

"Common expenses" means any expenditures made by, or financial liabilities of, the association, together with any allocations to reserves.

"Common expense liability" means liability for common expenses allocated to each cooperative interest pursuant to § 55.1-2118.

"Conversion building" means a building that at any time before creation of the cooperative was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

"Cooperative" means real estate owned by an association, each of the members of which is entitled, by virtue of his ownership interest in the association, to exclusive possession of a unit.

"Cooperative interest" means an ownership interest in the association coupled with a possessory interest in a unit under a proprietary lease. For purposes of this chapter, a declarant is treated as the owner of any cooperative interests or potential cooperative interests to which allocated

interests have been allocated pursuant to § 55.1-2118 until that cooperative interest has been created and conveyed to another person.

"Declarant" means any person or group of persons acting in concert that (i) as part of a common promotional plan, offers to dispose of its cooperative interest not previously disposed of; (ii) reserves or succeeds to any special declarant right; or (iii) applies for registration of a cooperative under Article 5 (§ 55.1-2173 et seq.).

"Declaration" means any instruments, however denominated, that create a cooperative and any amendments to those instruments.

"Development rights" means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a cooperative; (ii) create units, common elements, or limited common elements within a cooperative; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a cooperative.

"Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a cooperative interest, but does not include the transfer or release of a security interest.

"Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association.

"Identifying number" means a symbol or address that identifies only one unit in a cooperative.

"Leasehold cooperative" means a cooperative in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the cooperative or reduce its size.

"Limited common element" means a portion of the common elements allocated by the declaration or by operation of subdivision 2 or 4 of § 55.1-2113 for the exclusive use of at least one unit but fewer than all of the units.

"Master association" means an organization described in § 55.1-2130, whether or not it is also an association described in § 55.1-2132.

"Offering" means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a cooperative interest, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a cooperative not located in the Commonwealth is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the cooperative is located.

"Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity. In the case of a land trust, however, "person" means the beneficiary of the trust rather than the trust or the trustee.

"Proprietary lease" means an agreement with the association pursuant to which a proprietary lessee has a possessory interest in a unit.

"Proprietary lessee" means a person that owns a cooperative interest, other than as security for an obligation, and the declarant with respect to cooperative interests or potential cooperative interests to which allocated interests have been allocated pursuant to § 55.1-2118 until that

cooperative interest has been created and conveyed to another person.

"Purchaser" means any person, other than a declarant or a person in the business of selling cooperative interests for his own account, that, by means of a voluntary transfer, acquires or contracts to acquire a cooperative interest other than as security for an obligation.

"Real estate" means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests that, by custom, usage, or law, pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes (i) parcels with or without upper or lower boundaries and (ii) spaces that may be filled with air or water.

"Residential purposes" means use for dwelling or recreational purposes, or both.

"Security interest" means an interest in real or personal property, created by contract or conveyance, that secures payment or performance of an obligation. "Security interest" includes a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation.

"Special declarant rights" means rights reserved for the benefit of a declarant to (i) complete improvements described in the public offering statement pursuant to subdivision A 2 of § [55.1-2155](#); (ii) exercise any development right pursuant to § [55.1-2120](#); (iii) maintain sales offices, management offices, signs advertising the cooperative, and models; (iv) use easements through the common elements for the purpose of making improvements within the cooperative or within real estate that may be added to the cooperative; (v) make the cooperative part of a larger cooperative or group of cooperatives; (vi) make the cooperative subject to a master association as specified in § [55.1-2130](#); or (vii) appoint or remove any officer of the association, any master association, or any executive board member during any period of declarant control.

"Time share" means a right to occupy a unit or any of several units during five or more separated time periods over a period of at least five years, including renewal options, whether or not coupled with an estate or interest in a cooperative or a specified portion of such estate or interest.

"Unit" means a physical portion of the cooperative designated for separate occupancy under a proprietary lease.

1982, c. 277, § 55-426; 2005, c. [436](#); 2019, c. [712](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 55.1-2147. (Effective October 1, 2019) Annual budget; reserves for capital components

A. Except to the extent provided in the declaration, the board of directors shall, prior to the commencement of the fiscal year, make available to lot owners either (i) the annual budget of the association or (ii) a summary of such annual budget.

B. Except to the extent otherwise provided in the declaration, the executive board shall:

1. Conduct at least once every five years a study to determine the necessity and amount of reserves required to repair, replace, and restore the capital components as defined in § 55.1-2100 ;
2. Review the results of that study at least annually to determine if reserves are sufficient; and
3. Make any adjustments the executive board deems necessary to maintain reserves, as appropriate.

C. To the extent that the reserve study conducted in accordance with this section indicates a need to budget for reserves, the association budget shall include:

1. The current estimated replacement cost, estimated remaining life, and estimated useful life of the capital components as defined in § 55.1-2100;
2. As of the beginning of the fiscal year for which the budget is prepared, the current amount of accumulated cash reserves set aside to repair, replace, or restore the capital components and the amount of the expected contribution to the reserve fund for that fiscal year;
3. A statement describing the procedures used for estimation and accumulation of cash reserves pursuant to this section and the extent to which the association is funding its reserve obligations consistent with the study currently in effect; and
4. A statement of the amount of reserves recommended in the study and the amount of current cash for replacement reserves.

2005, c. 436, § 55-471.1; 2019, cc. 33, 44, 712.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

APPENDIX B - GLOSSARY

The following definitions are for common terms related to reserve studies.

Accrual Method: A means of saving for an upcoming expense at a constant rate, so that all money will be available when needed.

Accrued Fund Balance (AFB): The total accrued depreciation. It is an indicator against which the actual or projected reserve balance can be compared to identify the direct proportion of the “used up” life of the current repair or replacement cost. This number is calculated for each component, and the summed together for the association total. The following formula can be used to determine AFB: $AFB = \text{Current Cost} \times \text{Effective Age/Useful Life}$.

As-built Plans: Drawings produced by the developer that show the actual characteristics of a community at the time when construction was completed.

Assessment: Monetary contribution required of each member of common interest community association to meet the association’s expenses. Assessments are typically due once a month.

Association: A legal entity that manages a common interest community and enforces its governing documents. These include property owners’ associations, condominium unit owners’ associations, and proprietary lessees’ associations in real estate cooperatives.

Capital Improvements: Additions to the association’s common elements that previously did not exist. While these components should be added to the reserve study for future replacement, the cost of construction should not be taken from the reserve fund.

Cash Flow: The amount of money deposited into and withdrawn from a reserve account over a certain period of time.

Cash Flow Method: A method of developing a reserve funding plan where contributions to the reserve fund are designed to offset the variable annual expenditures from the reserve fund. Different reserve funding plans are tested against the anticipated schedule of reserve expenses until the desired funding goal is achieved.

Common Area or Common Elements: The portion of a common interest community that is owned jointly by all members of the association. In a property owners’ association this portion is called a common area. In a condominium or real estate cooperative, these are called common elements.

Component: The individual line items in the reserve study developed or updated in the physical analysis. These elements form the building blocks for the reserve study. These components comprise the common elements of the community and typically are: 1. association responsibility,

2. with limited useful life expectancies, 3. predictable remaining useful life expectancies, and 4. above a minimum threshold cost. It should be noted that in certain jurisdictions there may be statutory requirements for including components or groups of components in the reserve study.

Component Full Funding: When the actual or projected cumulative reserve balance for all components is equal to the fully funded balance.

Component Inventory: The task of selecting and quantifying reserve components. This task can be accomplished through on-site visual observations, review of association design and organizational documents, a review of established association precedents, and discussion with appropriate association representatives.

Component Method: A method of developing a reserve funding plan where the total contribution is based on the sum of contributions for individual components.

Condition Assessment: The task of evaluating the current condition of the component based on observed or reported characteristics.

Contingency Fund: The portion of reserves allocated for unanticipated expenses, such as damage to components or unexpected cost increases.

Current Replacement Cost: See “replacement cost.”

Deficit: An actual or projected reserve balance less than the fully funded balance.

Developer Drawings: Drawings produced by the developer before or during construction of the community. Such drawings may or may not match the community’s actual attributes. (Also see “As-built Plans.”)

Effective Age: The difference between useful life and remaining useful life. Not always equivalent to chronological age, since some components age irregularly. Used primarily in comparisons.

Financial Analysis or Funding Analysis: The portion of a reserve study where the current status of the reserves (measured as cash or percent funded) and a recommended reserve contribution rate (reserve funding plan) are derived, and the projected reserve income and expense over time is presented. The financial analysis is one of the two parts of a reserve study.

Fund Status: The status of the reserve fund as compared to an established benchmark such as percent funding.

Funding Goals: Independent of methodology utilized, the following represent the basic categories of funding plan goals:

- *Baseline Funding:* Establishing a reserve funding goal of keeping reserve cash balance above zero.
- *Component Funding:* Setting a reserve funding goal of attaining and maintaining cumulative reserves at or near 100% funded.
- *Statutory Funding:* Establishing a reserve funding goal setting aside the specific minimum amount of reserves of component required by local statutes.
- *Threshold Funding:* Establishing a reserve funding goal of keeping the reserve balance above a specified dollar or percent funded amount. Depending on the threshold, this may be more or less conservative than component full funding.

Funding Plan: An association's plan to provide income to a reserve fund to offset anticipated expenditures from that fund.

Funding Principles:

- *Sufficient Funds When Required*
- *Stable Contribution Rate over the Years*
- *Evenly Distributed Contributions over the Years*
- *Fiscally Responsible*

Governing Documents: Legal documents that organize the common interest community, establish contractual relationships between the parties, and establish the rights and responsibilities of individual owners, the association, authorized occupants, and the governing board. Governing documents typically consist of a declaration for the community, including a legal description of the property, plat(s) of the development, plans for development structures, and bylaws for the operation of the association. Governing documents may also include rules and regulations for the community. In a condominium, the governing documents are called *condominium instruments*.

Inflation: The rate at which the cost of components are expected to rise over time.

Interest: Money earned from reserve funds deposited into an account at a financial institution.

Inventory: A list of community-owned components and their attributes, such as age, quality, manufacturer, degree of wear, and useful life.

Life and Valuation Estimates: The task of estimating useful life, remaining useful life, and repair or replacement costs for the reserve components.

Maintenance Responsibilities Chart: A table or chart often included in association governing documents that details maintenance responsibilities in a common interest community between the association and individual owners.

Management Company or Common Interest Community Manager: An outside company hired by an association to perform some of the association's functions. These can include collection of assessments, and maintenance of the common area or common elements.

On-site Inspection: Physical inspection of one or more components to help determine their current physical state and remaining useful life.

Operating Budget: The portion of an association's budget that is allocated for frequently-occurring or minor expenses.

Percent Funded: The ratio, at a particular point of time (typically the beginning of the fiscal year), of the actual (or projected) reserve balance to the accrued fund balance, expressed as a percentage.

Physical Analysis: The portion of the reserve study where the component inventory, condition assessment, and life and valuation estimate tasks are performed. This represents one of the two parts of the reserve study.

Remaining Useful Life (RUL): The estimated time, in years, that a reserve component can be expected to continue to serve its intended function. Projects anticipated to occur in the initial year have "zero" remaining useful life. RUL is also referred to as remaining life (RL).

Replacement Cost: The cost of replacing, repairing, or restoring a reserve component to its original functional condition. The current replacement cost would be the cost to replace, repair, or restore the component during that particular year.

Reserve Account: An account at a bank or other financial institution containing funds intended solely to pay reserve expenses.

Reserve Balance or Reserve Funds: Actual or projected funds as of a particular point in time that the association has identified for use to defray the future repair or replacement of those major components which the association is obligated to maintain. Also known as reserves, reserve accounts, cash reserves. Based upon information provided and not audited.

Reserve Component: The individual line items in the reserve study developed or updated in the physical analysis. These elements form the building blocks for the reserve study. Components typically are the association responsibility, have limited useful life expectancies, have predictable remaining useful life expectancies, are above a minimum threshold cost, and are as required by local codes.

Reserve Provider: An individual that prepares reserve studies.

Reserve Study: A capital budget planning tool that can be used by an association to determine the physical status and repair/replacement cost of an association's capital components, and an analysis of an association's funding capacity to maintain, repair, and replace capital components.

Special Assessment: An assessment levied on the members of an association in addition to regular assessments. Governing documents or local statutes often regulate special assessments.

Surplus: An actual or projected reserve balance greater than the fully funded balance.

Useful Life (UL): Total useful life or depreciable life is the estimated number of years that a reserve component can be expected to serve its intended function if it is properly constructed in the present application and/or installation.

Work Product: The output from a reserve study, such as reports, tables, and charts.

Appendix C – List of Common Area/Common Elements Components

Note: The following is a list of components typically found in common interest communities. Please be advised this is not an exhaustive list, and does not include every type of component that may be found in a community.

A
Alarm systems, fire and intrusion
Antennas, satellite dish and other
Appliances
Asbestos encapsulation or removal
Awnings and other overhead coverings
B
Balconies (see also decks)
Benches
Boilers
Bulkheads
C
Concrete (walls, patios, sidewalks, curbs, and gutters)
D
Decks, pool and spa
Decks, residential
Display cases
Docks
Doors
Drainage systems
E
Electrical transformers
Electrical wiring and related fixtures in common area
Elevator, cab
Elevator, hydraulic, traction, etc.
Equipment, cleaning and maintenance
Equipment, communication and telephone
Equipment, entertainment, music/video systems
Equipment, exercise, recreational, etc.
Equipment, office
Equipment, pool, pumps, motors and filters
F
Fans, exhaust, garage, and other
Fences, chain link, wood, etc.
Fire escapes
Fire sprinklers and related equipment
Floor covering, carpet, tile, vinyl, etc.
Floor covering, wood replacement and refinishing

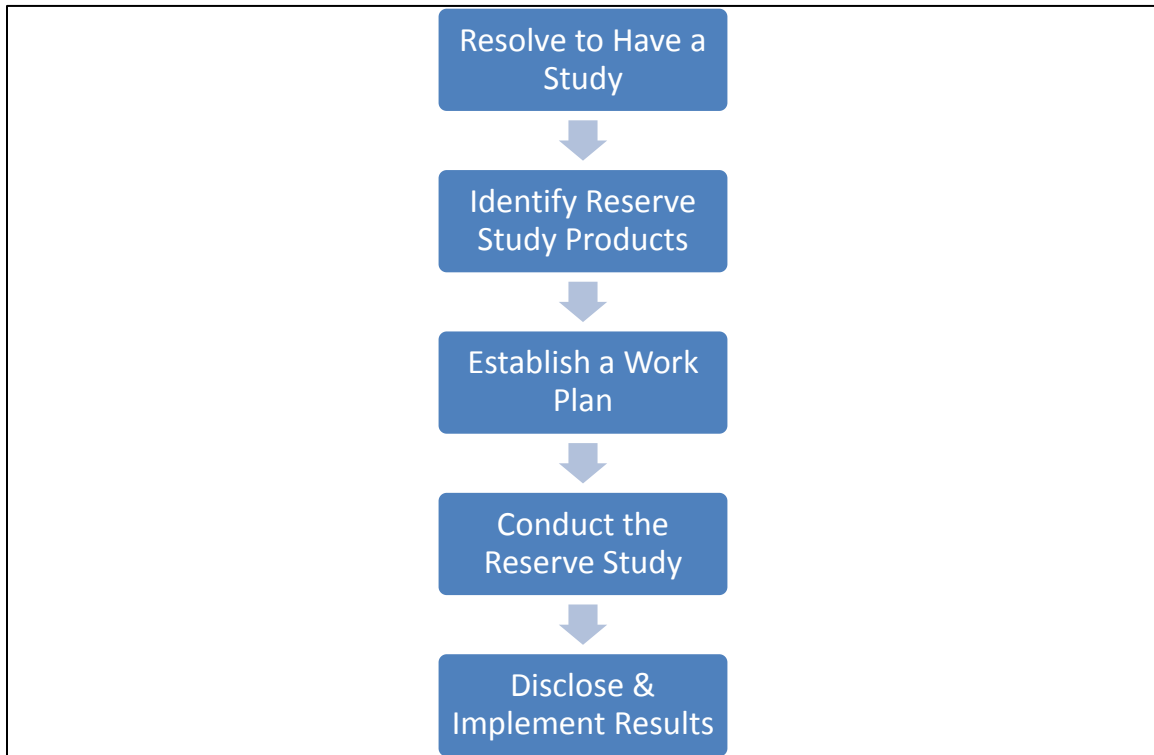
Fountains
Furnishings, lobby, clubhouse, etc.
G
Gates, iron, wood, etc.
Garage doors and hardware
Garbage enclosures
Gazebo
Generator
Gutters and downspouts
H
HVAC, air conditioning
HVAC, heating systems
I
Irrigation system, controllers
Irrigation system, piping, valves and sprinkler heads, pumps
K
Kiosks and message/communication centers
L
Lakes, ponds, and waterways
Landscaping, replacement of major trees and plants
Life safety system (exit signs, emergency lights)
Light fixtures, exterior
Light fixtures, interior
M
Mailboxes and centers
Masonry
Monitoring system, carbon monoxide
P
Paint and stain, exterior
Paint and stain, interior common area
Parking garages
Pavers
Paving
Perimeter walls
Planter boxes
Plumbing fixtures, exterior and interior
Plumbing, piping systems
Pool (plaster, mechanical equipment, deck,

furniture)
Posts, deck, lamp, etc.
Pumps, lakes, ponds, waterways, building systems
R
Racquetball courts
Railings
Retaining wall
Roof
S
Seawalls
Security gates, gate operator and motor, entry system
Septic tanks
Sewage ejector equipment
Siding and trim
Skylights
Slopes
Solar heating system, pool and spa
Solar heating system, residential
Spas
Stables and tack rooms
Stairs
Stormwater systems
Streets and drives, parking areas
Stucco, sandblasting and resurfacing
Subsurface utility piping
Sump pump equipment
Swimming pools
T
Tennis courts, resurfacing, lighting, fencing
Trash compactor
Trellises
V
Valves
Vehicles
Ventilation system, garage
W
Walkways, wood, brick, tile, etc.
Water heaters
Waterproof membranes
Windows

Appendix D – Flowcharts

Steps to Provide for Adequate Reserves
Steps in Physical Analysis
Steps in Financial Analysis

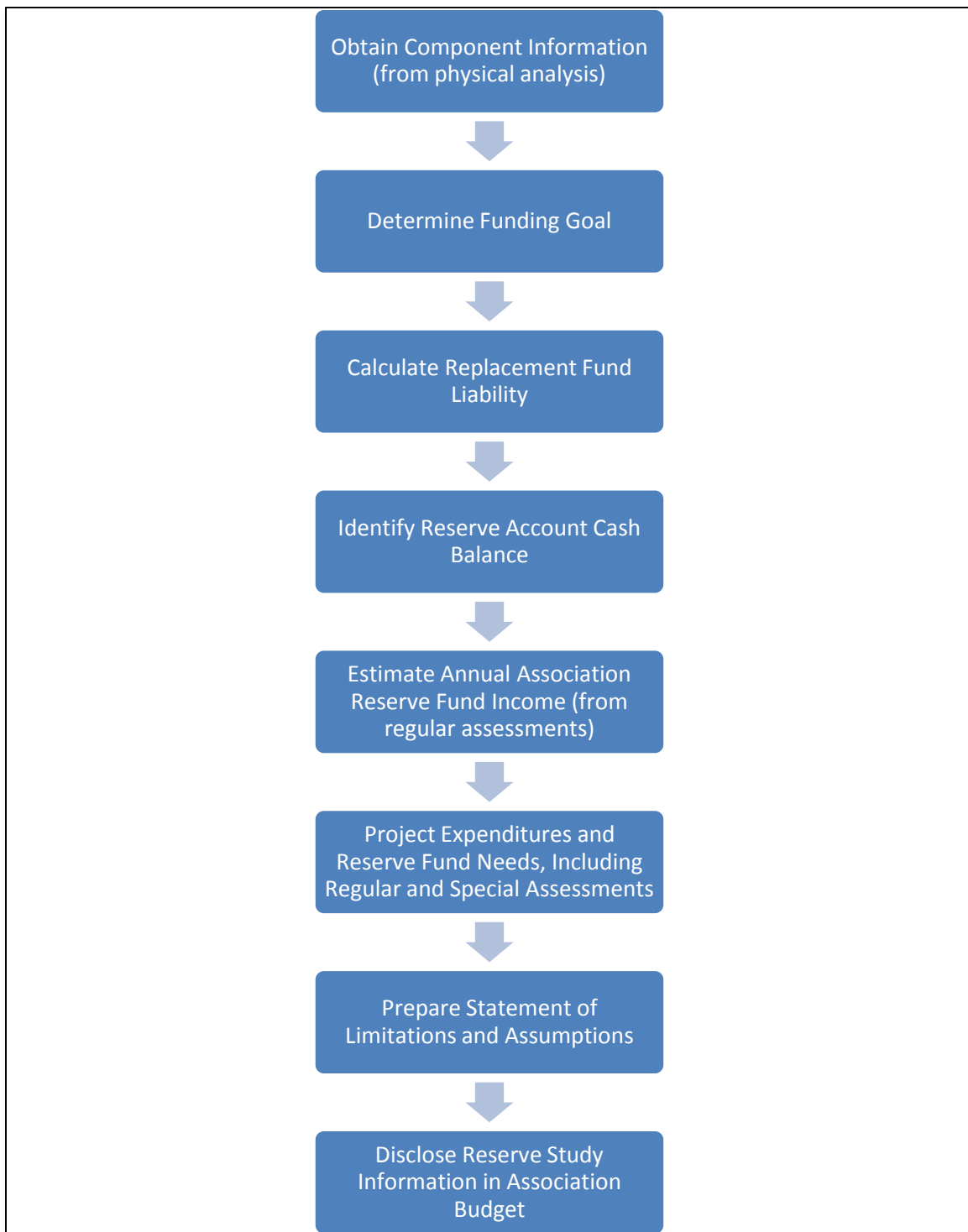
Steps to Provide for Adequate Reserves



Steps in the Physical Analysis Process



Steps in the Financial Analysis Process



Appendix E – Checklists and Interview Questions

Checklist	Physical Analysis
Checklist	Financial Analysis
Interview Questions	Physical Analysis Preparers
Interview Questions	Financial Analysis Preparers

Physical Analysis Checklist

Deciding which components to include:

- ☐ Relevant components mentioned in developer budget have been reviewed.
- ☐ Components mentioned in the governing documents have been reviewed.
- ☐ An on-site inspection for possible additional components has been made.
- ☐ The governing board has had a public discussion and has determined a policy stating its position on life-of-the-building, exclusive use, and quasi-structural components.
- ☐ The governing board has communicated the component list to the preparer of the physical analysis.

Specifying quantities of each component:

- ☐ As-built drawings have been consulted, if possible.
- ☐ An on-site inspection of each component and on-site count of each type of component have been made.
- ☐ The quality of each component has been determined and expressed in terms that identify a specific grade of material.

Determining the useful life (UL) of each component:

- ☐ Manufacturer warranties have been consulted whenever possible.
- ☐ Environmental factors that might affect useful life have been taken into account.
- ☐ Installation and materials have been determined to be consistent with each manufacturer's description; if not, an adjustment has been made to the remaining useful life estimated by the warranty or by the manuals.
- ☐ A standard manual has been consulted.
- ☐ Maintenance assumptions have been documented.

Assessing the remaining useful life (RUL) of each component:

- ☐ An on-site inspection of each component has been made.
- ☐ Past maintenance has been taken into account.
- ☐ Individuals with knowledge of the components have participated in the assessment of remaining life.
- ☐ The governing board has determined what level of maintenance is expected to achieve the remaining life estimated.

Determining the cost of replacement:

- ☐ A standard costing manual has been consulted or more than one tradesperson asked for a price for each component.
- ☐ If a manual is used, the "current" price of each component has been adjusted for the age of the data in the manual.
- ☐ If a manual is used, regional variations in price are taken into account.
- ☐ Cost of replacement includes cost of removing old component, if necessary.
- ☐ Adjustments have been made for grade or quality of materials or levels of maintenance of materials.

Financial Analysis Checklist

Funding goal:

- ☐ The association's funding goal for reserve replacement is clearly specified.

Budget information

- ☐ The budget contains estimated revenue and expenses on an accrual basis.
- ☐ The budget identifies total cash reserves currently set aside.
- ☐ The budget shows funds set aside for reserves in a separate account(s).
- ☐ The estimated remaining life of all major components is shown.
- ☐ The estimated current replacement cost of all major components is shown.
- ☐ The budget includes identification of methods of funding for future repair, replacement, or additions.
- ☐ The budget includes a statement on methods used to develop estimates and funding plan.

Association income and expense estimates:

- ☐ An appropriate component inflation factor has been used to estimate replacement costs in future years.
- ☐ The interest rate applied to association cash reserves is reasonable, and is an after-tax estimate.
- ☐ Needed special assessments are clearly identified.
- ☐ Assumptions about increases in the portion of regular assessments allocated to reserves are clearly specified.
- ☐ Income and expenditures are shown annually for the plan period.

Association cash balances:

- ☐ With reserve assessments, the cash balance (assets-planned reserve expenditures) is greater than zero in every year.
- ☐ The reserve deficit is estimated for the current year.
- ☐ The model shows a stable or decreasing reserve deficit (in constant dollars) over the plan period.

Physical Analysis Preparer Interview Guide

1. Do you have any personal or professional ties to this association? (Note: Such a tie does not necessarily indicate a conflict of interest, but should be disclosed and considered.)
2. Do you have any personal or professional ties to the developer? (Note: Such a tie does not necessarily indicate a conflict of interest, but should be disclosed and considered.)
3. If hiring an individual or sole practitioner: Do you do all the work yourself, or will you use subcontractors? (The association should approve all subcontractors.) Are you a Professional Reserve Analyst (an Association of Reserve Analysts designation) or a Reserve Specialist (a Community Associations Institute designation) or do you hold other professional designations? What is your training (formal education and workshops)?
4. If hiring a firm: Will work be done by employees of your firm? How do you train your employees?
5. With what professional associations are you actively involved?
6. What experience have you had with performing component studies?
7. What experience have you had in this locale?
8. May we see an example of a similar product done for another association?
9. What information do you require from the association in order to start?
10. When will you begin the study?
11. Will you be measuring the components or using drawings?
12. Will you make a physical inspection of each component? What percentage of components will you inspect for fences, walls, controllers, buildings, etc.?
13. How will you determine the cost of replacement?
14. What written sources will be used?
15. How long will it be before we have the final product?
16. Will the report provide the estimated useful life of each component?
17. Will the report provided the estimated remaining life of each component?
18. Will the report provide the current costs of repair or replacement of each component?
19. Will the report provide the future costs of repair or replacement for each component and/or the inflation rate to be applied to each component?
20. Will the report provide information on proper maintenance to help assure realization of the estimated remaining life of each component? Will the report include visuals such as photographs or video?
21. Do you have liability insurance?
22. Do you have workers' compensation insurance?
23. Please provide three references (name, phone, nature of work).
24. Cost for revisions and/or updates.

Financial Analysis Preparer Interview Guide

1. Do you have any personal or professional ties to this association? (Note: Such a tie does not necessarily indicate a conflict of interest, but should be disclosed and considered.)
2. Do you have any personal or professional ties to the developer? (Note: Such a tie does not necessarily indicate a conflict of interest, but should be disclosed and considered.)
3. If hiring an individual or sole practitioner: Do you do all the work yourself, or will you use subcontractors? (The association should approve all subcontractors.) Are you a Professional Reserve Analyst (an Association of Reserve Analysts designation) or a Reserve Specialist (a Community Associations Institute designation) or do you hold other professional designations? What is your training (formal education and workshops)?
4. If hiring a firm: Will work be done by employees of your firm? How do you train your employees?
5. With what professional associations are you actively involved?
6. What experience have you had with community association budgeting?
7. May we see an example of a completed financial analysis?
8. What information do you require from the association in order to start?
9. When will you begin the study?
10. How long will it be before we have the final product?
11. Will the report provide current and future estimated liability computations?
12. Will the report provide current and future estimated cash balances by year?
13. Will the report provide current and future repair replacement costs?
14. Will the report present alternative funding plans?
15. Will the report provide a description of assumptions and methodology, a narrative funding plan, and a graphic depiction for easier board and member understanding?
16. Will the report tell how much of a monthly contribution is needed for the reserves?
17. Do you have professional liability insurance?
18. Please provide three references (name, phone, nature of work).

Appendix F – Sample Financial Analysis

Sample Financial Analysis – Estimated Cash Requirements by Year

(30 year plan – 3 components; values shown for years 1-5, 15, and 30 only)

Major Component	Estimated Useful Life	Estimated Remaining Life	Estimated Current Cost to Replace	End of Year 0	End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 15	End of Year 30
Painting	5	2	\$10,000			\$10,000					
Paving	7	3	\$14,000				\$14,000				
Roofing	15	4	\$30,000					\$30,000			
Total Costs			\$54,000			\$10,000	\$14,000	\$30,000	\$0	\$0	\$0
Component cost increase factor @ 4.6% per annum					1.00	1.046	1.094	1.144	1.197	1.877	3.685
Estimated replacement cost, in scheduled year (apply cost factor to total replacement costs)					\$0	\$10,460	\$15,318	\$34,333	\$0	\$0	\$0

<i>Cash Flow Forecasts</i>	End of Year 0	End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 15	End of Year 30
Assessments, regular		\$1,500	\$1,800	\$2,160	\$2,592	\$3,110	\$10,906	\$30,515
Assessments, special		\$0	\$0	\$0	\$30,000	\$0	\$0	\$0
After-tax interest reserve account income, @ 5.775%		\$1,271	\$1,430	\$1,013	\$312	\$229	\$1,519	\$6,482
Total cash receipts		\$2,771	\$3,230	\$3,173	\$32,904	\$3,339	\$12,426	\$36,997
Major component costs (from total above)		\$0	\$10,460	\$15,318	\$34,333	\$0	\$0	\$0
Cash receipts – cash disbursements		\$2,771	(\$7,230)	(\$12,145)	(\$1,430)	\$3,339	\$12,426	\$36,997
Cash balance, beginning of year		\$22,000	\$24,771	\$17,541	\$5,396	\$3,967	\$26,311	\$112,241
Cash balance, end of year	\$22,000	\$24,771	\$17,541	\$5,396	\$3,967	\$7,306	\$38,737	\$149,238

<i>Summary</i>	End of Year 0	End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 15	End of Year 30
Estimated liability (total from next page)	\$36,000	\$43,932	\$52,518	\$50,461	\$43,095	\$15,026	\$74,602	\$154,173
Less cash balance	\$22,000	\$24,771	\$17,541	\$5,396	\$3,967	\$7,306	\$38,737	\$149,238
Estimated unfunded liability	\$14,000	\$19,162	\$34,977	\$45,065	\$39,128	\$7,720	\$35,865	\$4,935
Estimated unfunded liability per unit (35 units)	\$400	\$547	\$999	\$1,288	\$1,118	\$221	\$1,025	\$141

Sample Financial Analysis – Computation of Major Component Liability by Year

<i>Major Component Replacement Liability</i>		End of Year 0	End of Year 1	End of Year 2	End of Year 3	End of Year 4	End of Year 5	End of Year 15	End of Year 30
Painting	Useful life	5	5	5	5	5	5	5	5
	Remaining life	2	1	0	4	3	2	2	2
	Replacement cost	\$10,000	\$10,460	\$10,941	\$11,971	\$11,971	\$12,522	\$19,632	\$38,543
	Liability	\$6,000	\$8,368	\$10,941	\$2,394	\$4,788	\$7,513	\$11,779	\$23,126
Paving	Useful life	7	7	7	7	7	7	7	7
	Remaining life	3	2	1	0	6	5	2	1
	Replacement cost	\$14,000	\$14,644	\$15,318	\$16,022	\$16,759	\$17,530	\$27,485	\$53,961
	Liability	\$8,000	\$10,460	\$13,130	\$16,022	\$2,394	\$5,009	\$19,632	\$46,252
Roofing	Useful life	15	15	15	15	15	15	15	15
	Remaining life	4	3	2	1	0	14	4	4
	Replacement cost	\$30,000	\$31,380	\$32,823	\$34,333	\$35,913	\$37,564	\$58,897	\$115,630
	Liability	\$22,000	\$25,104	\$28,447	\$32,044	\$35,913	\$2,504	\$43,191	\$84,795
Total liability		\$36,000	\$43,932	\$52,518	\$50,461	\$43,095	\$15,026	\$74,602	\$154,173

Appendix G – Sample Summary Report

Reserve Study Summary for (Name of Association)
(Date)

This reserve study is an assessment of the property and contains projections regarding anticipated future projects and expenses necessary to maintain the property in good condition. Included are the major components of the community's property that are likely to require repair, restoration, or replacement during the next (##) years. Excluded are items covered in the annual operating budget and items that are not community property.

The reserve study and this summary were prepared by (name of individual(s)). The previous reserve study was done by (name of individual(s)) in (date). The property was originally constructed in (date).

This study provides a rational basis for the Board of Directors to make decisions about annual budgets and future funding. The report contains a financial analysis of possible methods of funding the projected future expenses. These are to be understood as examples only, not as mandated solutions. Only the Board has the responsibility and authority to decide funding.

A reserve study is not a spending plan. The Board should assess the condition of the property each year and make spending decisions based on current circumstances. The Board will review the preparer's recommendations and make decisions accordingly. The reserve analyst has no authority to decide assessments or spending.

In calculating funding requirements for reserves, the following factors were considered:

- All common element components, their quantities, and expected service lives
- The current conditions, remaining service lives, and values of the components
- The impact of cost inflation over time

Reserve funding needs were calculated by estimating the cost and timing for repair, restoration, or replacement projects during the next (##) years. After accounting for cost inflation, assumed to be (# percent) annually, the total reserve expenses by year were estimated for the next (##) years.

Funding for these estimated expenses was calculated using the (type of method of used) by taking the current amount in reserves (\$dollars) and the current annual assessment for reserves (\$dollars), and calculating the future assessments needed to pay for the future expenses.

The following is a summary of the projected reserve expenses and assessments for the next five years.

<u>Year</u>	<u>Expenses</u>	<u>Assessments</u>	<u>Amount in Reserves</u>	<u>Comments</u>
20##	\$####	\$####	\$####	
20##	\$####	\$####	\$####	
20##	\$####	\$####	\$####	
20##	\$####	\$####	\$####	

Details are in the full reserve study report dated (date). The estimates prepared are subject to review and revision by the Board. The (applicable statute) requires that a reserve study must be done at least every five years.

Appendix H – Calculating Reserve Deficit Using Interest and Inflation

For this example, use the following information for replacement of a roofing component.

(Note: The \approx symbol refers to a rounded figure.)

Component	Age in Years as of 12/31/2018 (Effective Age)	Estimated Useful Life (UL)	Estimated Remaining Useful Life (RUL)	Replacement Cost	Interest Rate	Inflation Rate
Roofing (wood shingle)	11	15	4	\$30,000	5% (.05)	3% (.03)

$$\text{Desired Balance} = \left(\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age} \right) + \left(\frac{\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age}}{(1 + \text{Interest Rate})^{\text{Remaining Life (RUL)}}} \right) - \left(\frac{\frac{\text{Replacement Cost}}{\text{Useful Life (UL)}} \times \text{Effective Age}}{(1 + \text{Inflation Rate})^{\text{Remaining Life (RUL)}}} \right)$$



$$\text{Desired Balance} = \left(\frac{\$30,000}{15} \times 11 \right) + \left(\frac{\$30,000/15 \times 11}{(1 + .05)^4} \right) - \left(\frac{\$30,000/15 \times 11}{(1 + .03)^4} \right)$$



$$\textit{Desired Balance} = (\$22,000) + \left(\frac{\$22,000}{(1.05)^4} \right) - \left(\frac{\$22,000}{(1.03)^4} \right)$$



$$\textit{Desired Balance} = (\$22,000) + \left(\frac{\$22,000}{1.21550625} \right) - \left(\frac{\$22,000}{1.12550881} \right)$$



$$\textit{Desired Balance} = (\$22,000) + (\approx \$18,099.45) - (\approx \$19,546.72)$$



$$\textit{Desired Balance} = \$20,552.73 \approx \$20,553$$

CONDOMINIUM SAFETY PUBLIC POLICY REPORT

RESERVE STUDIES AND FUNDING, MAINTENANCE,
AND STRUCTURAL INTEGRITY

OCTOBER 2021




community
ASSOCIATIONS INSTITUTE

www.caionline.org

Dedicated to

the memory of those who lost their lives,

those who lost loved ones,

and those who lost their homes

in the tragic collapse of Champlain Tower South

in Surfside, Fla., on June 24, 2021.

We also devote this report to the first responders who risked their lives and worked tirelessly to rescue, support, protect, and provide closure in the face of an unimaginable disaster.

In addition, we are beyond grateful for the countless volunteer organizations and individuals offering resources, aid, support, and comfort to the survivors and community in Surfside.

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For more information, contact:
Dawn M. Bauman, CAE
dbauman@caionline.org
(703) 970-9224

Phoebe Neseth, Esq.
pneseth@caionline.org
(703) 970-9256

EXECUTIVE SUMMARY

Following the tragic partial collapse of Champlain Tower South in Surfside, Fla., on June 24, 2021, CAI convened task forces to explore changes to laws and best practices for the community association housing model that may help other communities avoid this type of devastation and to provide solutions for legislators seeking to address building safety in their districts.

Over a three-month period, more than 600 people participated in CAI's process through conversations, surveys, research, interviews, and identifying clear recommendations. Reserve specialists, attorneys, insurance and risk management professionals, developers, engineers, architects, community association managers, and homeowner leaders contributed. The teams also engaged stakeholders across the globe and across a wide range of disciplines, expertise, interests, and organizations.

The task forces met weekly to analyze and discuss findings of the surveys and interviews and began developing the public policy positions. They vetted ideas with experts in their field and local practitioners, including board members, managers, and business partners, to ensure practical, reasonable, and meaningful recommendations. The teams were guided by data, inclusivity, and transparency.

An important consideration in this process was meeting the demands of multiple stakeholders—state legislators seeking to introduce legislation in 2022 sessions, congressional representatives looking for immediate solutions for their constituents, federal housing finance agencies hoping to mitigate their risks, the private insurance market trying to mitigate their risks, and homeowners and residents of condominiums and housing cooperatives expecting to feel safe in their homes.

The task forces submitted their final public policy positions for consideration by the CAI Government & Public Affairs Committee with final approval by the CAI Board of Trustees.

This report provides very specific public policy recommendations on the following major topics: **reserve studies and funding; building maintenance; and structural integrity.**

While the task forces believe it is important to educate legislators and other stakeholders about the purpose and importance of reserve studies and funding plans, it is unknown if updated standards in this arena would've prevented the collapse of Champlain Tower South. Reserve studies are a planning tool to assist with budgeting for replacement or substantial repairs based on life cycle and not intended to evaluate existing building conditions or to specify corrective repairs. Local building inspectors play a key role in the execution of structural integrity public policy. Those with the authority to provide a certificate of occupancy and otherwise condemn a building have the authority and obligation to inspect.

The recommendations in this report include specific public policies CAI believes should be considered for adoption into state law to support the existing statutory framework for the development, governance, and management of community associations, also referred to as common-interest developments, common-interest communities, planned communities, condominiums, townhomes, housing cooperatives, and homeowners associations.

In addition to the data collected from CAI membership through the development process of these public policies, we turned to the [2020 Homeowner Satisfaction Survey](#) (Foundation for Community Association Research, 2020) conducted by Zogby International. Survey respondents were asked about their understanding of reserve studies and whether they support reserve funding in their communities. Here are their responses:

If you live in a condominium or homeowners association, does your community have a reserve study to help plan for repair and replacement of major components owned by the community?

60% Yes

22% Not Sure

18% No

Does your community have a plan to fund the repair and replacement of major components owned by the community?

75% Yes

16% Not Sure

9% No

Do you support annually investing in your community to build a fund for future repair and replacement of major components owned by the community?

71% Yes

13% Not Sure

16% No

Building Maintenance and Structural Integrity

CAI recommends additional requirements by developers during the development process and prior to transition to the homeowners. CAI worked closely with developers on these recommendations. We believe these recommendations are balanced, equitable, and approved by the participating developers and their agents. Structural integrity is addressed through statutory mandated building inspections with a baseline inspection when the building is 10 years old, another inspection at 20 years, and every five years thereafter. Inspections are based on the American Society of Civil Engineers (ASCE) published protocol for building inspections (ANSI).

According to a recent Stanford University report titled ["Guidelines for Life Cycle Cost Analysis,"](#) as a building ages, the cumulative cost of operating and maintaining facilities significantly impacts the overall budget, not just the maintenance budget. The greater issue with deferred maintenance is that it only grows in scope—and cost—the longer it is deferred, resulting in 30 times the cost to repair versus keeping up with routine maintenance.

According to ["Breaking Point: Examining aging infrastructure in community associations,"](#) (Research, 2019) more than three-quarters (80%) of community managers, board members, and contractors in community associations surveyed across the U.S. felt it was critical that their association have adequate reserves in the event of a major infrastructure failure or construction need.

Nearly half (40%) of those surveyed considered deteriorating infrastructure as a top-ranked concern. More than two-thirds (70%) of survey respondents indicated that maintaining property values was of primary importance.

Finally, the approved policies provide support to community association elected boards and urge them to follow the advice of professionals, especially in circumstances that are related to life, health, and safety.

Note: Model statutory language supported by the policy recommendations outlined in the report will be released in November 2021.

Federal Resources and Policy Priorities

CAI's Federal Legislative Action Committee identified resources to support localities: building up the expertise needed to conduct inspections with qualified engineers or architects; and supporting the increase in resources needed to conduct regular structural inspections. These resources can be found under the federal priorities portion of the report.

CAI's federal team conducted a deep analysis on federal law and regulation that may be used as vehicles to incentivize timely compliance with these recommended positions with an emphasis on building inspection and structural integrity. The federal priorities provide solutions to address financial burdens on municipalities and households resulting from periodic structural analysis inspections of covered community association housing, including:

Solutions to mitigate financial burdens on local governments of increased structural analysis inspections by clarifying—or authorizing, if necessary—that inspection of aging covered community association housing is an eligible use of Community Development Block Grant (CDBG) funds.

Engaging federal housing agencies to develop corrective maintenance loan products that may include government insured or guaranteed blanket condominium rehabilitation loans secured by assessment income.

Securing amendments to the Internal Revenue Code to provide pre-loss access to disaster recovery tax deductions and authorizing a federal income tax deduction for interest paid on community association loans funding corrective maintenance.

Securing pre-disaster access to **federal uninsured loss disaster personal income tax deduction** for community association households following determination of major risk of structural failure for a 10-year period.

These policy recommendations must be supported by strong best practices for community association leaders, particularly condominium and cooperative board members.

The Foundation for Community Association Research's *Best Practices Report: Reserve Studies and Reserve Management* is included in the index and provides excellent procedures for homeowner leaders and professional managers to put into practice immediately. CAI continues to develop additional guidance and best practices for condominium and housing cooperative boards, their managers, building inspectors, developers, accountants, and reserve specialists.

As the September/October 2021 cover of *Common Ground™* magazine, CAI's flagship publication, promises:

We mourn. We pray. We vow to help.

OVERVIEW & INTRODUCTION

Days after the June 24 tragic and shocking partial collapse of Champlain Tower South, Community Associations Institute (CAI) leadership met to discuss what we could do to make sure a tragedy like this never happens again.

CAI began outreach to other organizations to help inform the policy recommendations. Our contacts included the National League of Cities, National Society of Professional Engineers, National Association of Counties, Building Owners & Managers Association, International Code Council, Building Inspectors Association, American Property & Casualty Association, American Society of Civil Engineers, and National Association of Housing Cooperatives. These conversations are ongoing as we continue our work together to make buildings safer.

Condominium buildings are home to millions of people in the U.S., and government officials at the local, state, and federal levels immediately began exploring changes to prevent a similar building collapse.

As the leading international organization for condominiums, housing cooperatives, and homeowners associations, CAI found itself uniquely positioned to bring together the expertise, experience, knowledge, and perspective of a wide range of stakeholders—condominium and cooperative board members, homeowners, condominium and community association managers, attorneys, bankers, developers, insurance professionals, engineers, reserve study providers, and others—to discuss a response to the Champlain Tower South tragedy.

CAI's member volunteers immediately began analyzing current best practices, standards, and public policies related to condominium structural requirements. Three working groups were appointed with the purpose of identifying recommendations, changes, and updates CAI could consider providing to local, state, and federal legislators as they discuss legislative solutions to prevent this type of disaster in their districts.

Building maintenance and structural integrity. Led by Robert M. Diamond, a fellow in CAI's College of Community Association Lawyers (CCAL) in Virginia; Mitch Frumkin, RS, a professional engineer (PE) licensed by the National Society of Professional Engineers in New Jersey; and Stephen Marcus, a CCAL fellow in Massachusetts.

Reserve study and funding plans. Led by Robert Browning, PCAM, RS, in California; Mitch Frumkin, PE, RS; and Lisa Magill, a CCAL fellow in Florida.

Insurance and risk management. Led by Jennifer Eilert, CIRMS, in Illinois; Phil Masi, CIRMS, in Florida; A.J. Scott, CIRMS, in California; and Cliff Treese, CIRMS, in California. *Currently, there are no specific policy recommendations from this task force.*

Each task force had a similar objective: immediately and quickly engage stakeholders to identify necessary changes to best practices, standards of practice, and public policy positions.

Federal solutions and policy priorities. As the task forces worked diligently, CAI's Federal Legislative Action Committee began talking with members of Congress (especially Florida representatives), Fannie Mae, Freddie Mac, Federal Housing Finance Agency, and the Department of Housing and Urban Development about potential policy changes. CAI identified several federal policy solutions to support financial stability, maintenance, building inspection, and structural integrity.

Process

Once the task force leadership was appointed, an open call to join the groups was released. The teams met weekly with members from across the U.S., and included attorneys, community association managers, reserve specialists, engineers, insurance experts, homeowner leaders, and others. Nearly 400 people served on the task forces. All meetings were open, and all perspectives were invited and welcomed.

The task forces conducted research, held interviews with experts from around the world, studied statutes, met with legislators, surveyed CAI members, and participated in town hall meetings. The groups evaluated building inspection requirements in Australia, Canada, Spain, Singapore, and localities throughout the U.S.

In addition to the weekly group meetings, the task force leaders connected weekly to debrief, ensure their work was not overlapping, and to share progress. Since so many people were involved in the activities, we used surveys to capture support of positions. The recommendations moved forward only if an overwhelming majority of survey participants supported the position.

The task forces continually revisited survey data and feedback to adjust the recommendations. The final policy positions were vetted through two more surveys that collected responses from:

1. CAI legislative action committees, Member Representation Groups, and CCAL Board of Governors—161 respondents
2. Community Conversation Surfside, Fla. (webinar), attendees—68 respondents

The survey results indicated overwhelming support (at least 75%) for most policy positions. None of the positions garnered less than 60% support. For additional details, find the full survey results in the appendix.

In the end, there was a tremendous amount of conversation and different perspectives, which we believe contribute to the quality of these recommendations.

2021 Timeline

July 1	Task force leaders appointed.
July 12	Task forces begin work.
Aug. 16	Task forces provide status report to CAI Board of Trustees.
Aug. 18	Task forces present policy recommendations to CAI Government & Public Affairs Committee and state legislative action committee members during open forum (in person and virtual).
Aug. 20	CAI hosts townhall to discuss policy recommendations (in person and virtual).
Aug. 23	The vetting process continues through conversations, meetings, surveys, emails, and blog posts with CAI state legislative action committees, College of Community Association Lawyers, Homeowner Leaders Council, Business Partners Council, and Community Association Managers Council.
Sept. 1	CAI holds a Community Conversation (virtual) with membership to discuss public policy recommendations.

Sept. 14	CAI Government & Public Affairs Committee approves task force public policy recommendations for reserve studies and funding and building inspections and structural integrity.
Oct. 12	Recommendations discussed with all state legislative action committee members.
Oct. 28	CAI Board of Trustees approves final public policy recommendations.
Oct. 29	CAI releases Condominium Safety Public Policy Report: Reserve Studies and Funding, Maintenance, and Structural Integrity.

BACKGROUND

About Community Associations Institute

CAI is an international membership organization dedicated to building better communities. With over 42,000 members, CAI has 63 chapters within the U.S., Canada, South Africa, and the United Arab Emirates as well as relationships with housing leaders in several other countries, including Australia, Spain, and the United Kingdom. CAI provides information, education, and resources to the homeowner volunteers who govern communities and the professionals who support them. CAI members include community association board members and other homeowner leaders, community association managers, association management firms, and other professionals who provide products and services to communities. CAI serves community associations and homeowners by:

- Advancing excellence through seminars, workshops, conferences, and education programs, most of which lead to professional designations for community association managers and other industry professionals.
- Publishing the largest collection of resources available on community association management and governance, including website content, books, guides, *Common Ground*™ magazine, and specialized newsletters.
- Advocating on behalf of common-interest communities and industry professionals before legislatures, regulatory bodies, and the courts.
- Conducting research and serving as an international clearinghouse for information, innovations, and best practices in community association development, governance, and management.

We believe homeowners associations and condominium associations should strive to exceed the expectations of their residents. We work toward this goal by identifying and meeting the evolving needs of the professionals and volunteers who serve associations, by being a trusted forum for the collaborative exchange of knowledge and information, and by helping our members learn, achieve, and excel. Our mission is to inspire professionalism, effective leadership, and responsible citizenship—ideals reflected in associations that are preferred places to call home.

About the Community Association Housing Model in the U.S.

According to the Foundation for Community Association Research, there are 74.1 million Americans living in approximately 355,000 community associations in the U.S. A community association is commonly known as a condominium, homeowners associations, or housing cooperative. It is estimated between 25–27% of the U.S. population lives within a community association.

The Foundation for Community Association Research estimates there are between 131,450–156,000 condominium associations and cooperatives in the U.S. housing between 27–32 million Americans. While there are numerous high-rise buildings, especially in California, Florida, Hawaii, Illinois, New Jersey, New York, and Massachusetts, the Foundation estimates the average number of units in a condominium is 60.

\$9.2 trillion is the value of homes in community associations.

\$103.2 billion is the total amount of assessments paid each year by homeowners. Assessments fund many essential association obligations, including professional management services, utilities, security, insurance, common area maintenance, landscaping, capital improvement projects, and amenities like pools and clubhouses.

\$25.8 billion is the total assessment dollars contributed to community association reserve funds for the repair, replacement, and enhancement of common property, e.g., replacing roofs, resurfacing streets, repairing swimming pools and elevators, meeting new environmental standards, and implementing new energy-saving features.

2.4 million volunteers are elected by their neighbors to their community association boards of directors and committees. Community association boards guide provide governance and other critical services for the community usually funded by property taxes.

While community associations come in many forms and sizes, all associations share three basic characteristics: (1) membership in the association is mandatory and automatic for all property owners; (2) certain legal documents bind all owners to defined land-use requirements administered by the community association; and (3) all property owners pay mandatory lien-based assessments that fund association operations.

The community association housing model is actively supported by local government as it permits the transfer of many municipal costs to the association and homeowners. Today, many community associations deliver services that once were the exclusive province of local government.

Financial Model of Community Associations

- Community associations are usually organized as nonprofit corporations in the state. (Note: They usually do **not** have a nonprofit tax determination by the IRS, i.e., 501c). However, they file taxes as a nonprofit corporation.
- The nonprofit corporation has shareholders (every owner in the community). The owners each pay their fair share of the nonprofit corporation expenses by paying assessments. Further, the owners select, by election, the board of directors to make decisions on their behalf.
- Assessments can be thought of like property taxes. The assessments pay for the services delivered by the community, including trash and snow removal, street maintenance, lighting, insurance, recreation facilities, stormwater management, landscaping, and more.
- Assessments are usually the only form of income for an association.
- Association expense are usually fixed expenses that are spent on contracts like trash removal, elevator maintenance, roof maintenance, landscaping, street maintenance, insurance, and payment for maintenance and repair of other amenities.
- Community association boards of directors have an obligation, by statute, to act in the best interests of the corporation, and one of these actions is to work to ensure the financial health of the

community. One way to do this is to continue to manage the financial affairs by collecting assessments from the owners.

- The collection of community association assessments is a very serious and important responsibility of the governing board. Failing to collect assessments may impair a community association's ability to pay its bills, provide essential services, obtain financing for continued operations, and may impact the ability of a potential purchaser to obtain a mortgage.



RESERVE STUDY AND FUNDING POLICY POSITION

(Adopted and Approved October 2021)

CAI SUPPORTS STATE LAW THAT:

1. Require reserve studies to be prepared in compliance with [National Reserve Study Standards](#).
2. Mandate reserve studies (Level IV Preliminary, Community Not Yet Constructed) pre/during construction and (Level I Full) at the time of transition/turnover from developer control to homeowner control. Reserve study with disclosures to be included with Purchase and Sale agreements.
3. Mandate reserve studies (Level I Full; Level II Update with Site Visit Review) that support community associations; including condominiums, housing cooperatives, and planned communities with major shared components for the member's unit or dwelling or significant infrastructure/site improvements (i.e., roads, street lighting, accessory buildings, etc.)
 - Significant infrastructure or major shared components are to be defined as associations whose aggregate replacement costs exceed \$10,000.
4. Mandate reserve studies (Level II Updates with Site Visit Review) on a periodic basis.
5. Mandate reserve funding for community associations; including condominiums, housing cooperatives, and planned communities with major shared components in buildings containing dwellings. Include practical legislative process for community associations to comply with funding requirements. Note: funding is based on the reserve study funding plan. Communities should be allowed an opportunity to slowly catch up to reserve funding upon passage of legislation.
 - Significant infrastructure or major shared components are to be defined as associations whose aggregate replacement costs exceed \$10,000.
6. Mandate disclosure; including summary of reserve fund financial condition, and funding plan, during annual budgeting (standardized disclosure).
7. Mandate disclosure to new buyers of reserve study, including reserve study funding plan (standardized disclosure).
8. Require reserve studies to be conducted by a reserve specialist, reserve professional, or other qualified professional, i.e., an engineer, an architect.

9. Address funding for emergent life safety issue repairs by authorizing the association governing board to special assess or borrow funds without a vote of the membership.

CAI OPPOSES STATE LAW THAT:

- Allows owners to waive/opt-out of reserve funding requirements.
- Prohibits including structural and/or engineering inspections by appropriate professionals and the financial impact of said inspections in the reserve study and funding plan.
- Restrict the borrowing from reserves for other purposes.

BEST PRACTICE RECOMMENDATIONS

These are not statutory recommendations, rather best practice recommendations.

1. Planning and funding for preventative maintenance schedule, repairs, and replacement for aging buildings and other structural components **that are not** currently addressed in standard reserve studies.
2. Level I Full or Level II Update with Site Visit Review should be completed no less than every five years (legislative) and three-years (best practices).
3. Reserve funding for communities without significant or major common improvements recommended in amounts based on anticipated cost to repair or replace as determined by governing board.

CAI resources that may be helpful for understanding reserves and reserve studies, include the following:

- [CAI National Reserve Study Standards](#)
- [Explanation of Reserve Study Standards](#)
- [Best Practices: Reserve Studies/Management](#)



Summary of State Reserve Fund Laws (As of October 2021)

Many states have enacted legislation dealing with community association reserve and operating funds to protect owners from fiscal problems and financial hardship. More states may enact similar legislation as community associations continue to gain popularity. The following is a summary of each state reserve fund law.

Reserve studies for condominium associations are required in the following **9 states: California, Colorado, Delaware, Hawaii, Nevada, Oregon, Utah, Virginia, and Washington State**. Washington statutorily encourages associations to have a reserve study performed every three years unless doing so would impose an unreasonable hardship. Florida statute does not require a reserve study but requires a reserve schedule for repair and replacement of major components.

Reserve studies for developers are required in the following **5 states: California, Delaware, Florida, Nevada, and Oregon**. In Oregon, the declarant, on behalf of a homeowners association, shall conduct an initial reserve study, prepare an initial maintenance plan, and establish a reserve account.

Reserve funding for condominium associations is required in the following **11 states: Connecticut, Delaware, Florida, Hawaii, Illinois, Massachusetts, Michigan, Minnesota, Nevada, Ohio, and Oregon**.

Reserve funding for developers is required in the following **6 states: Arizona, Delaware, Florida, Nevada, Oregon, and Wisconsin**. In Wisconsin, the developer of a condominium that is created on or after November 1, 2004, shall establish a statutory reserve account when the condominium is created and shall execute a statutory reserve account statement. The declarant shall determine the annual amount to be assessed unit owners for reserve funds.

Annual budget disclosure of reserve funding for condominium associations is required in 33 states and disclosure at the time of resale of reserve study and/or funding requirement for condominium associations is required in 30 states.

Please remember that community associations are governed by state law, which can vary widely from state to state. This information is intended for general educational and informational purposes only; it may not reflect the most recent developments, and it may contain errors or omissions. The publisher does not warrant or guarantee that the information contained here complies with applicable law of any given state. It is not intended to be a substitute for advice from a lawyer, community manager, accountant, insurance agent, reserve professional, lender, or any other professional.

ALABAMA

The unit owners' associations may adopt and amend budgets for revenues, expenditures and reserves and impose and collect assessments for common expenses from unit owners. [Section 35-8A-302\(2\)](#). Sellers must present buyers with an offering statement of the amount, or a statement that there is no amount, included in

the budget as a reserve for repairs and replacement, and a statement of any other reserves. [Section 35-8A-403\(5\)](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ALASKA

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 34.08.320 \(2\)](#). A public offering statement must include assumptions concerning the calculation of the amount of reserves certified by a certified architect or engineer; the amount included in the budget as a reserve for repairs and replacement including the estimated cost of repair or replacement cost and the estimated useful life of the asset to be repaired or replaced; and a statement of any other reserves. [Section 34.08.530\(5\)](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ARIZONA

For condominiums, unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 33-1242\(2\)](#). The resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the association, if any. [Section 33-1260](#).

For planned communities, resale disclosure statement must include the total amount of money held by the association as reserves. The purchaser must also receive a copy of the most recent reserve study of the community, if any. [Section 33-1806](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

[Section 10-3830](#) requires directors of nonprofit corporations to discharged duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director reasonably believes to be in the best interests of the corporation.

ARKANSAS

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

CALIFORNIA

On a quarterly basis common interest development board of directors must review reserve accounts and compare reserves to the previous year. At least once every three years, boards must conduct a competent and diligent visual inspection of the property that the association is obligated to repair, replace restore or maintain as part of a study of the reserve account requirements. The board is to annually review this study to consider and implement necessary adjustments to the board's analysis of the reserve account requirements. The required reserve study shall at minimum include identification of the major components that the association is obligated to repair, replace, restore, or maintain that, as of the date of the study, have a remaining useful life of less than 30 years, identification of the probable remaining useful life of the components identified in the study as of the date of the study, an estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in the study, an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified in the study during and at the end of

their useful life, after subtracting total reserve funds as of the date of the study, and a reserve funding plan that indicates how the association plans to fund the contribution identified in the study. See more detailed information in [California Civil Code Section 5550-5520](#).

There is no statutory requirement to fund reserves.

COLORADO

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 38-33.3-302](#).

When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced, and improved by the association; whether there is a funding plan for any work recommended by the reserve study and, if so, the projected sources of funding for the work; and whether the reserve study is based on a physical analysis and financial analysis. An internally conducted reserve study shall be sufficient. [Section 38-33.3-209.5](#)

There is no statutory requirement to fund reserves.

CONNECTICUT

Condominium associations shall provide in the proposed budget for the condominium adequate reserves for capital expenditures. [Section 47-88e](#). Common interest community executive boards, at least annually, shall adopt a proposed budget for the common interest community for consideration by the unit owners. Not later than thirty days after the adoption of a proposed budget, the executive board shall provide to all unit owners a summary of the budget, including a statement of the amount of any reserves, and a statement of the basis on which such reserves are calculated and funded. [Section 47-261e](#). Resale disclosure statement must include the total amount of money held by the association as reserves. [Section 47-264\(5\)](#).

There is no statutory requirement to conduct a reserve study.

DELAWARE

Condominiums must contain within their declaration provisions that mandate that the association create and maintain, in addition to any reserve for contingencies, a fully funded repair and replacement reserve based upon a current reserve study. [Section 81-205\(14\)](#). Minimum contributions to reserves vary based on the Reserve Study or a statutory formula based on number of common area components. [Section 81-315](#). Condominium disclosure statement must include the current balance in reserves and the most recent reserve study. [Section 81-409](#).

DISTRICT OF COLUMBIA

The unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 42-1903.08](#). Disclosure statement shall include the amount, or a statement that there is no amount, included in the projected budget as a reserve for repairs and replacement. [Section 42-1904.04](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

FLORIDA

Condominium financial reporting rules must include, but not be limited to, standards for presenting a summary of association reserves, including a good faith estimate disclosing the annual amount of reserve funds that would be necessary for the association to fully fund reserves for each reserve item based on the straight-line accounting method. [Section 718-111\(13\)](#). Annual budgets shall include reserve accounts for items such as, but not limited to, roof replacement, pavement, painting and other items with a replacement cost exceeding \$10,000. Funding for the accounts can be waived by a majority vote at a duly called meeting. [Section 718.112\(f\)\(2\)](#).

Homeowner associations may adopt a budget that includes reserve accounts for capital expenditures and deferred maintenance for which the association is responsible. If reserve accounts are not established, funding of such reserves is limited to the extent that the governing documents limit increases in assessments, including reserves. Associations may waive reserves with proper notification in their financial statement. [Section 720.303\(6\)](#).

Florida statute does not require a reserve study but requires a reserve schedule for repair and replacement of major components.

GEORGIA

Condominium resale disclosure statement must include the estimated or actual operating budget for the condominium for the current year's reserves. [Section 44-3-111](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

HAWAII

Condominium budgets shall include the amount of money in reserve, future reserve estimates based on a reserve study performed by the association, an explanation of how reserves are computed and the amount to be collected for reserves in the year ahead. The association shall compute the estimated replacement reserves by a formula that is based on the estimated life and the estimated capital expenditure or major maintenance required for each part of the property. The estimated replacement reserves shall include adjustments for revenues which will be received and expenditures which will be made before the beginning of the fiscal year to which the budget relates; and separate, designated reserves for each part of the property for which capital expenditures or major maintenance will exceed \$10,000. Parts of the property for which capital expenditures or major maintenance will not exceed \$10,000 may be aggregated in a single designated reserve. [Section 514B-148](#).

IDAHO

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

ILLINOIS

The Common Interest Community Act requires the board to give each owner a copy of the proposed annual budget which shall provide for reasonable reserves for capital expenditures and deferred maintenance for repair or replacement of the common elements. [765 ILCS 160/1-45](#).

The Condominium Act requires the board of managers to adopt a budget that provides for reasonable reserves for capital expenditures and deferred maintenance for repair or replacement of the common elements. To determine the amount of reserves appropriate, the board shall take into consideration the any independent professional reserve study which the association may obtain. Any association without a reserve requirement in its condominium instruments may elect to waive in whole or in part the reserve requirements by a vote of 2/3 of the total votes of the association. [760 ILCS 605/9.](#)

Disclosure statement shall include a statement of the status and amount of any reserve or replacement fund and any other fund specifically designated for association projects.

There is no statutory requirement to conduct a reserve study.

INDIANA

All sums assessed by the association of co-owners shall be established by using generally accepted accounting principles applied on a consistent basis and shall include the establishment and maintenance of a replacement reserve fund. The replacement reserve fund may be used for capital expenditures and replacement and repair of the common areas and facilities and may not be used for usual and ordinary repair expenses of the common areas and facilities. [Section 32-25-4-4.](#)

There is no statutory requirement to conduct a reserve study.

IOWA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

KANSAS

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

KENTUCKY

The Horizontal Property Law requires all co-owners to contribute toward the expense of maintaining a replacement reserve fund for repairs and maintenance of the general common elements. [Section 381.870.](#)

Condominium unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and impose and collect assessments for common expenses from unit owners. [Section 381.9167.](#) The resale disclosure statement must include the total amount of any reserves for capital expenditures, if any, and of any portions of those reserves designated by the association for any specified projects. [Section 381.9203.](#)

There is no statutory requirement to conduct a reserve study.

LOUISIANA

Associations may adopt and amend budgets for revenues, expenditures, and reserves and make and collect assessments for common expenses from unit owners. [Section 9:1123.102.](#) Public offering statements shall include an indication of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement. [Section 9:1124.102.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MAINE

Unit owners associations may adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. [Section 1603-102](#). Public offering statements must contain a statement of the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of the amount and purpose of any other reserves. [Section 1604-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MARYLAND

Councils of unit owners have the power to adopt and amend budgets for revenue, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 11-109](#). The level of reserves is required to be included in the annual budget; however, there is not a required level of reserve funding. [Section 11-109.2](#). Resale certificate must contain the current operating budget of the condominium including details concerning the reserve fund for repair and replacement and its intended use, or a statement that there is no reserve fund. [Section 11-135](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MASSACHUSETTS

All condominiums shall be required to maintain an adequate replacement reserve fund, collected as part of the common expenses, and deposited in an account or accounts separate and segregated from operating funds. [Section 183A-10\(i\)](#). Managing agents shall be responsible for rendering, in no case less frequently than quarterly, a written report to the trustees or the managing board of the organization of unit owners detailing all receipts and expenditures on behalf of the organization, including beginning and ending balances and copies of all relevant bank statements and reconciliations for the replacement reserve fund, and maintain a separate and distinct account for the replacement reserve fund. [Section 183A-10\(f\)](#).

There is no statutory requirement to conduct a reserve study.

MICHIGAN

Condominiums must have a reserve fund for major repairs and replacement of common elements shall be maintained by the associations of co-owners. The administrator may by rule establish minimum standards for reserve funds. [Section 559.205](#).

The state administrative code requires the co-owners' association to maintain a reserve fund which, at a minimum, shall be equal to 10% of the association's current annual budget on a noncumulative basis. The funds shall only be used for major repairs and replacement of common elements. Additionally, the following statement shall be contained in the bylaws: "The minimum standard required by this section may prove to be inadequate for a particular project. The association of co-owners should carefully analyze their condominium project to determine if a greater amount should be set aside, or if additional reserve funds should be established for other purposes." [Rule 559.511](#).

There is no statutory requirement to conduct a reserve study.

MINNESOTA

The common interest ownership act requires an association to include in its annual budget's replacement reserves projected by the board to be adequate, together with past and future contributions to replacement reserves, to fund the replacement of common elements. The act also requires the association to reevaluate the adequacy of its budgeted replacement reserves at least every third year after the recording of the declaration creating the common interest community. [Section 515B.3-1441](#). Unit owners associations have the power to adopt and amend budgets for revenues, expenditures and reserves and collect assessments for common expenses from unit owners. [Section 515B.3-101](#). Communities must distribute an annual report with a statement of the association's total replacement reserves, the components of the common interest community for which the reserves are set aside, and the amounts of the reserves, if any, that the board has allocated for the replacement of each of those components. [Section 515B.3-106](#). Disclosure statements must include the amount in the budget as replacement reserves and a statement of any other reserves.

There is no statutory requirement to conduct a formal reserve study.

MISSISSIPPI

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MISSOURI

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 448.3-102.1](#). Resale certificates must provide the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any specified projects. [Section 448.4-109.1](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

MONTANA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEBRASKA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 76-860](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEVADA

The common interest ownership act requires an association to establish adequate reserves, funded on a reasonable basis, for the repair, replacement, and restoration of the major components of the common elements. [Section 116.3115](#). Additionally, the executive board of an association is required to conduct a study of reserves at least every five years, review the study to determine if reserves are sufficient, and adjust reserves, if necessary. The statute specifies how the study is to be conducted. [Section 116.31152](#). A public offering statement must include a budget which has a statement of the amount included in the budget as reserves. [Section 116.4103](#).

NEW HAMPSHIRE

Public offering statement must include the status and amount of any reserve for the major maintenance or replacement fund and any portion of such fund earmarked for any specified project by the board of directors. [Section 356-B:58.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEW JERSEY

The association may levy and collect assessments duly made by the association for a share of common expenses or otherwise, including any other moneys duly owed the association, upon proper notice to the appropriate unit owner, together with interest thereon, late fees and reasonable attorneys' fees, if authorized by the master deed or bylaws. All funds collected by an association shall be maintained separately in the association's name. For investment purposes only, reserve funds may be commingled with operating funds of the association. Commingled operating and reserve funds shall be accounted for separately, and a commingled account shall not, at any time, be less than the amount identified as reserve funds. [Section 46:8B-15.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEW MEXICO

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 47-7C-2.](#) Disclosure statements must state the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Section 47-7D-3.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NEW YORK

Condominium bylaws may contain provisions governing the payment, collection, and disbursement of funds, including reserves, to provide for major and minor maintenance, repairs, additions, improvements, replacements, working capital, bad debts and unpaid common expenses, depreciation, obsolescence, and similar purposes. [RRP Section 339-V.](#) Co-operative corporation directors must periodically set aside reasonable sums for reserves. [CCO Section 72.](#)

There is no statutory requirement to conduct a reserve study.

NORTH CAROLINA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 47C-3-102](#) and [47F-3-102.](#) Public offering statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Section 47C-4-103.](#)

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

NORTH DAKOTA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

OHIO

Unless otherwise provided in the declaration or bylaws, the condominium unit owners association, through the board of directors, shall adopt and amend budgets for revenues, expenditures, and reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, provided that the amount set aside annually for reserves shall not be less than 10% of the budget for that year unless the reserve requirement is waived annually by the unit owners exercising not less than a majority of the voting power of the unit owners association. [Section 5311.081.](#)

Planned community owners associations, unless otherwise provided in the declaration or bylaws, through its board of directors, shall annually adopt and amend an estimated budget for revenues and expenditures. Any budget shall include reserves in an amount adequate to repair and replace major capital items in the normal course of operations without the necessity of special assessments, unless the owners, exercising not less than a majority of the voting power of the owners association, waive the reserve requirement annually. [Section 5312.06.](#)

There is no statutory requirement to conduct a reserve study.

OKLAHOMA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

OREGON

The declarant, on behalf of a homeowners association, shall conduct an initial reserve study, prepare an initial maintenance plan, and establish a reserve account. A reserve account shall be established to fund major maintenance, repair, or replacement of all items of common property which will normally require major maintenance, repair, or replacement, in whole or in part, in more than one and less than 30 years. The board of directors of the association annually shall conduct a reserve study or review and update an existing study to determine the reserve account requirements. After review of the reserve study or reserve study update, the board of directors may, without any action by owners adjust the amount of payments as indicated by the study or update and provide for other reserve items that the board of directors, in its discretion, may deem appropriate. [Section 94.595](#) and [100.175](#). Following a turnover of power from the declarant to the association, the board of directors at least annually shall adopt a budget for the planned community and include moneys to be allocated to the reserve account. [Section 94.645](#) and [100.483](#). However, the board of directors, with the approval of all owners, may elect not to fund the reserve account for the following year. [Section 94.595](#) and [100.175](#).

PENNSYLVANIA

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Chapter 33 Section 3302](#) and [Chapter 53 Section 5302](#). Disclosure statements must statement of the amount or a statement that there is no amount included in the budget as a reserve for repairs and replacement and a statement of any other reserves. [Chapter 33 Section 3402](#) and [Chapter 53 Section 5402](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

RHODE ISLAND

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 34-36.1-3.02](#). Public offering statements for condominiums must disclose a budget detailing the amount of reserves sufficient for painting exterior surfaces, replacing roofing, resurfacing roadways or other items subject to declaration. Must also disclose itemized life spans for common elements and expected impact on assessments. [Section 34-36.1-4.03](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

SOUTH CAROLINA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

SOUTH DAKOTA

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

TENNESSEE

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 66-27-402](#). Disclosure statements must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacements, and whether any study has been done to determine their adequacy, if a study has been done, where the study will be made available for review and inspection, and a statement of any other reserves. [Section 66-27-503](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

TEXAS

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 82.102](#). Resale statements must include the amount of reserves, if any, for capital expenditures and of portions of those reserves designated by the association for a specified project. [Section 82.157](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

UTAH

Condominium management committees must cause a reserve analysis to be conducted no less frequently than every six years and review and, if necessary, update a previously conducted reserve analysis no less frequently than every three years. [Section 57-8-7.5](#). The management committee may conduct a reserve analysis itself or may engage a reliable person or organization, as determined by the management committee, to conduct the reserve analysis. An association of unit owners shall annually provide unit owners a summary of the most recent reserve analysis or update. [Section 57-8a-211](#). In formulating the association's budget each year, an association shall include a reserve fund line item in: (a) an amount the board determines, based on the reserve analysis, to be prudent; or (b) an amount required by the governing documents, if the governing documents require an amount higher than the amount determined under Subsection (6)(a).

There is no statutory requirement to fund reserves.

VERMONT

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 27A-3-102](#). Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. [Section 27A-4-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

VIRGINIA

Associations must conduct a reserve study at least once every five years to determine the necessity and amount of reserves required to repair, replace, and restore the common elements or capital components. The board of directors must review the study at least annually and adjust as the board determines to keep the funding of reserves sufficient. The statutory provisions on reserves also include requirements for the contents of the association budget if reserves are determined to be a necessity. [Section 55.1-1965](#). Resale certificates must include the current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the association. [Section 55.1-1991](#).

WASHINGTON

Unit owners associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners and establish and administer a reserve account and prepare a reserve study. [Section 64.34.304](#) and [64.38.020](#). The decisions relating to the preparation and updating of a reserve study must be made by the board of directors of the association in the exercise of the reasonable discretion of the board. Such decisions must include whether a reserve study will be prepared or updated, and whether the assistance of a reserve study professional will be utilized. [Section 64.34.388](#). Associations are encouraged to establish a reserve account to fund major maintenance, repair, and replacement of common elements, including limited common elements that will require major maintenance, repair, or replacement within 30 years. Unless doing so would impose an unreasonable hardship, an association with significant assets shall prepare and update a reserve study. The initial reserve study must be based upon a visual site inspection conducted by a reserve study professional. Unless doing so would impose an unreasonable hardship, the association shall update the reserve study annually. At least every three years, an updated reserve study must be prepared and based upon a visual site inspection conducted by a reserve study professional. [Section 64.34.380](#) and [64.38.065](#). The public offering statement shall include copies of the association's current reserve study, if any. If the association does not have a reserve study, the public offering statement shall contain the following disclosure: "This association does not have a current reserve study. The lack of a current reserve study poses certain risks to you, the purchaser. Insufficient reserves may, under some circumstances, require you to pay on demand as a special assessment your share of common expenses for the cost of major maintenance, repair, or replacement of a common element." [Section 64.34.410](#). Any association created after 2018, must prepare and update a reserve study in accordance with this chapter. An initial reserve study must be prepared by a reserve study professional and based upon either a reserve study professional's visual site inspection of completed improvements or a review of plans and specifications of or for unbuilt improvements, or both when construction of some but not all the improvements is complete. An updated reserve study must be prepared annually. An updated reserve study must be prepared at least every third year by a reserve study professional and based upon a visual site inspection conducted by the reserve study

professional. [Section 64.90.545](#). An association required to obtain a reserve study pursuant to RCW 64.90.545 must establish one or more accounts for the deposit of funds, if any, for the replacement costs of reserve components. Any reserve account must be an income-earning account maintained under the direct control of the board, and the board is responsible for administering the reserve account. [Section 64.90.535](#).

There is no statutory requirement to fund reserves.

WEST VIRGINIA

Unit owners' associations may adopt and amend budgets for revenues, expenditures, and reserves and collect assessments for common expenses from unit owners. [Section 36B-3-102](#). Public offering statement must include the amount, or a statement that there is no amount, included in the budget as a reserve for repairs and replacement and statement of any other reserves. [Section 36B-4-103](#).

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

WISCONSIN

The declarant of a condominium that is created on or after November 1, 2004, shall establish a statutory reserve account when the condominium is created and shall execute a statutory reserve account statement. The declarant shall determine the annual amount to be assessed unit owners for reserve funds. The declarant may elect not to establish a statutory reserve account at the time the condominium is created or, at any time, thereafter, may elect to terminate a statutory reserve account during the period of declarant control. If a declarant has elected not to establish a statutory reserve account or to terminate an account, establishment of a statutory reserve account shall be addressed at the first annual meeting of the association held after, or at a special meeting of the association held within one year after, the expiration of any period of declarant control under. An association may, with the written consent of most of the unit votes, create or terminate a statutory reserve account. [Section 703.163](#).

There is no statutory requirement to conduct a reserve study.

WYOMING

There is no statutory requirement to conduct a reserve study and no statutory requirement to fund reserves.

Note: This information is for informational purposes and is not intended to provide legal advice.



BUILDING MAINTENANCE & STRUCTURAL INTEGRITY POLICY POSITION

(Adopted and Approved October 2021)

CAI SUPPORTS LAWS THAT:

Provide for ongoing review of the major structural elements, owned, or maintained by the community association, of a multi-family residential building(s) of concrete, load bearing masonry, steel, or hybrid structural systems such as heavy timber including podium decks.

Developer Requirements at Turnover or Before

1. Provide a complete set of the final approved architectural and engineering design drawings used for construction and to obtain building permits as well as certificates of occupancy. In the event of changes in the structural components of the building, provide as-built drawings prepared by the initial design engineer, or where the initial design engineer is no longer available to provide the as-built drawings, then the drawings will be provided by a different design engineer, confirming structural adequacy. The drawings must reflect any subsequent changes to the structural components of the building.

Perform ongoing inspections during construction to confirm general conformance to the plans and specifications. Inspections shall be conducted by a building official with sufficient expertise or a licensed third-party architect or engineer. A certificate of occupancy shall not be issued until the building inspector or third-party inspector confirms that the building was constructed in general conformance with the structural portions of the drawings, plans, and specifications.

2. Provide a preventative maintenance manual to the association to be undertaken by the association over the life of the common area components including structural components. The developer shall deliver the maintenance manual to the association. The maintenance manual shall provide the maintenance schedule and timing for such maintenance, including periodic inspections of the structural components of the building. The developer shall include in the association budget or reserve study, as appropriate, the funds necessary to perform the scheduled maintenance.
3. Provide to prospective purchasers a summary of the future Building Inspection Requirements outlined below, together with the projected cost of same over time.

Building Inspection Requirements for New Construction & Existing Buildings

Mandatory building inspections of the major structural elements owned or maintained by the community association for all multi-family buildings of concrete, load bearing masonry, steel, or hybrid structural systems such as heavy timber including podium decks.

4. For new construction, the first inspection shall be conducted no later than five years after occupancy of the building.
5. For existing buildings more than 10 years old, the first inspection shall take place within 2 years of passage of new statutory requirements.

The purpose of the first inspection is to act as a baseline for future inspections as well as to identify issues of immediate concern. Each periodic inspector's report shall recommend when the next inspection shall be conducted, which, shall not exceed every 10 years during the first 20 years after construction and every 5 years thereafter.

6. Periodic inspections after the first inspection shall take place every 10-years for the first 20 years since construction and 5 years thereafter unless the prior inspection recommends sooner.

The purpose of the reinspection(s) will be to monitor progressive deterioration based on a comparison to the prior inspections and to identify issues of immediate concern as well as to establish a recommendation for the next inspection which, in any case shall not exceed 10 years for the first 20 years after construction and 5 years thereafter.

7. At any time, there is concern about the safety or stability of the building structure, an inspection should be conducted immediately.
8. Scope: The protocol for inspection can be found in the ASCE Standard SEI/ASCE 11-99 (latest edition) [Guideline for Structural Condition Assessment of Existing Buildings or other industry standards](#). The initial Baseline inspection is identified as the Preliminary Assessment within this guide. If necessary, a Detailed Assessment as defined within this guide may be required.

The requirement for these inspections is:

- Primary (required)
 - Structure
 - Inspection report protocols to follow.
 - Secondary (optional based on individual requirements)
 - Affiliated structures and mechanical systems.
9. The inspections must be conducted by the following assuming they meet the minimum requirement of being a licensed engineer with appropriate qualifications.
 - Local municipal building inspector if a licensed professional engineer, in good standing; or a
 - Licensed engineer hired by the building inspector, the community association, or the building owner

10. Communication Requirements to Governmental Authorities

If a safety concern is identified in the inspection reports the inspector must notify the local governmental authorities in writing and record the date and receipt of notice.

11. Funding of emergent life safety issue repairs

- a. The governing board of a community association must have the power to impose a special assessment or borrow funds necessary to make immediate repairs without a vote of the membership. Notwithstanding the provisions of the community association governing documents, empower the association governing board to impose a special assessment or borrow funds without a vote of the membership to fund emergent life safety repairs.

Best Practice Recommendations

Best practice recommendations are not statutory recommendations, but best practices. These Policies are not intended to be a part of the Transition Process from the developer and are intended solely to establish a basis for monitoring ongoing deterioration of the building structure due to aging. If the developer is still in control of the building at the time of a recommended periodic inspection, this inspection should be performed by a qualified third-party consultant with the cost of this inspection included within the operating budget or within the Preliminary Reserve Study.

Include in the Initial Budget

- a. Preliminary Reserve Study.
- b. Cost for periodic inspections as defined below with initial inspection taking place within 2 years of turnover. (This is not intended to be a Transition Study).
- c. Cost to update the Reserve Study to reflect as built construction.
- d. Cost to update of Reserve Study and Preventive Maintenance Schedule on a three-year cycle.
- e. Copies of all manufacturer/contractor warranties on all components.

Communication Requirements to Residents

- All reports to be saved for reference and to be used to monitor progressive conditions.
- Provide to resident's a summary report of the condition of the building(s) and a plan to address pending corrective maintenance issues and funding within 120 days after the building inspection.
- Provide notice that the full building inspection report is available for review.
- Resale disclosure statements should include anticipated special assessments and the summary building condition report.

Other Factors

- Planning for preventive and corrective maintenance as well as replacement/repair of aging buildings and other structural components that are not currently addressed in the community's current reserve study.
- Addressing natural disaster risks.
- Funding mechanism for preventive and corrective maintenance and replacement/repair of aging buildings and other structural components that are not currently addressed in communities current Reserve Study.

- Anticipating procedures for disposition of the project when the buildings and systems are economically obsolete (i.e., when the cost of repair or renovation exceeds the value of the project).



Public Policy Development Survey Data Summary

CAI fielded two surveys to capture the organization's membership feedback on the policy recommendations.

1. CAI legislative action committees, Member Representation Groups (MRGS), and CAI's College of Community Association Lawyers Board of Governors - (161 respondents)
2. Community Conversation Surfside, Fla. (webinar), attendees - (68 respondents)

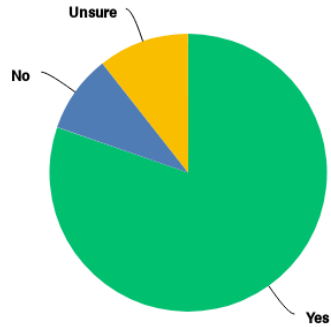
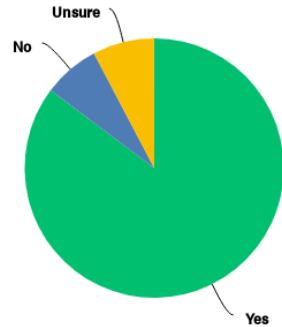
Reserve Study & Funding Public Policy Recommendation Survey Results

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)																								
Do you support state law that requires reserve studies to be prepared in compliance with National Reserve Study Standards?	<div><div><div></div><div></div><div></div><div></div></div><div><div>Yes</div><div>No</div><div>Unsure</div><div>Other (please specify)</div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div><div>90%</div></div></div> <table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>88.24%</td></tr><tr><td>No</td><td>2.94%</td></tr><tr><td>Unsure</td><td>4.41%</td></tr><tr><td>Other (please specify)</td><td>7.35%</td></tr><tr><td>Total Respondents: 68</td><td></td></tr></table>	ANSWER CHOICES	RESPONSES	Yes	88.24%	No	2.94%	Unsure	4.41%	Other (please specify)	7.35%	Total Respondents: 68		<div><div><div></div><div></div><div></div><div></div></div><div><div>Yes</div><div>No</div><div>Unsure</div><div>Other (please specify)</div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div><div>90%</div></div></div> <table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>84.47%</td></tr><tr><td>No</td><td>4.35%</td></tr><tr><td>Unsure</td><td>7.45%</td></tr><tr><td>Other (please specify)</td><td>8.70%</td></tr><tr><td>Total Respondents: 161</td><td></td></tr></table>	ANSWER CHOICES	RESPONSES	Yes	84.47%	No	4.35%	Unsure	7.45%	Other (please specify)	8.70%	Total Respondents: 161	
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Total Respondents: 161																										
Do you support state law that mandates the developer provide a “Level IV Preliminary, Community Not Yet Constructed” reserve study to a prospective purchaser and members? Note: Level IV is defined as Preliminary, Community Not Yet Constructed. A reserve study prepared before construction that	<div><div><div></div><div></div><div></div><div></div></div><div><div>Unsure</div><div>No</div><div>Yes</div></div></div>	<div><div><div></div><div></div><div></div><div></div></div><div><div>Unsure</div><div>No</div><div>Yes</div></div></div>																								

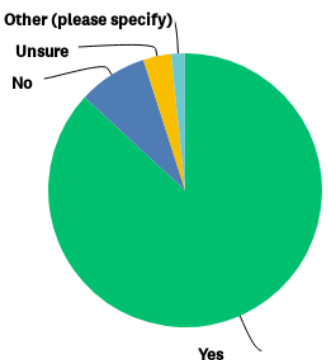
Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)
is generally used for budget estimates. It is based on design documents such as the architectural and engineering plans. The following three tasks are performed to prepare this type of study. Component inventory, Life and valuation estimates, and Funding plan	ANSWER CHOICES	ANSWER CHOICES
	Yes	Yes
	No	No
	Unsure	Unsure
	TOTAL	TOTAL
Do you support state law that mandates the developer provide a "Level 1 Full Reserve Study" at transition/tur nover from declarant control to homeowner control?	ANSWER CHOICES	ANSWER CHOICES
	Yes	Yes
	No	No
	Unsure	Unsure
	TOTAL	TOTAL
Do you support state law that mandates the developer fund the reserve study prior to transition/tur nover to homeowner control?	ANSWER CHOICES	ANSWER CHOICES
	Yes	Yes
	No	No
	Unsure	Unsure
	TOTAL	TOTAL

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)
Do you support state law that provides for mandatory full reserve study; including site inspection and funding plan for: (Check all that apply)	<div><div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities...</div><div>All of the above</div></div><div><div></div><div></div><div></div><div></div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div><div>90%</div></div></div> <div><div>ANSWER CHOICES</div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.</div><div>All of the above</div><div>Total Respondents: 67</div></div>	<div><div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities...</div><div>All of the above</div></div><div><div></div><div></div><div></div><div></div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div></div></div> <div><div>ANSWER CHOICES</div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities with major shared components for the member's unit or dwelling or significant infrastructure (i.e. roads, street lighting, amenities, etc.) Significant infrastructure or major shared components is defined as components whose cumulative replacement costs exceed \$10,000.</div><div>All of the above</div><div>Total Respondents: 150</div></div>
Do you support law that requires full reserve studies be conducted on a regular basis?	<div><div><div>Unsure</div><div>No</div><div>Yes</div></div><div><div></div><div></div><div></div></div></div> <div><div>ANSWER CHOICES</div><div>RESPONSES</div><div>Yes</div><div>84.38%</div><div>No</div><div>6.25%</div><div>Unsure</div><div>9.38%</div><div>TOTAL</div></div>	<div><div><div>Unsure</div><div>No</div><div>Yes</div></div><div><div></div><div></div><div></div></div></div> <div><div>ANSWER CHOICES</div><div>RESPONSES</div><div>Yes</div><div>76.32%</div><div>No</div><div>13.16%</div><div>Unsure</div><div>10.53%</div><div>TOTAL</div></div>
Do you support state law that provides for mandatory reserve funding for: (check all that apply)	<div><div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities...</div><div>All of the above</div></div><div><div></div><div></div><div></div><div></div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div><div>90%</div><div>100%</div></div></div>	<div><div><div>Condominiums</div><div>Housing Cooperatives</div><div>Planned communities...</div><div>All of the above</div></div><div><div></div><div></div><div></div><div></div></div><div><div>0%</div><div>10%</div><div>20%</div><div>30%</div><div>40%</div><div>50%</div><div>60%</div><div>70%</div><div>80%</div><div>90%</div><div>100%</div></div></div>

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Do you OPPOSE state law that allows community association owners to opt-out of funding mandatory reserves?	<div><div><div>Other (please specify)</div><div>Unsure</div><div>No</div><div>Yes</div></div><div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>74.24%</td></tr><tr><td>No</td><td>9.09%</td></tr><tr><td>Unsure</td><td>9.09%</td></tr><tr><td>Other (please specify)</td><td>7.58%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div></div>	ANSWER CHOICES	RESPONSES	Yes	74.24%	No	9.09%	Unsure	9.09%	Other (please specify)	7.58%	TOTAL		<div><div><div>Other (please specify)</div><div>Unsure</div><div>No</div><div>Yes</div></div><div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>64.60%</td></tr><tr><td>No</td><td>20.50%</td></tr><tr><td>Unsure</td><td>6.21%</td></tr><tr><td>Other (please specify)</td><td>8.70%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div></div>	ANSWER CHOICES	RESPONSES	Yes	64.60%	No	20.50%	Unsure	6.21%	Other (please specify)	8.70%	TOTAL	
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Do you support inclusion of funding for building/structural inspections for planned unit developments in reserve funding plans?	<div><div><div>Yes, if the association bears responsibility for maintenance of...</div><div>Yes, when the community includes common improvements that, if not...</div><div>Yes, for all</div></div><div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes, for all communities</td><td></td></tr><tr><td>Yes, when the community includes common improvements that, if not adequately maintained, could present dangerous conditions and lead to injuries</td><td></td></tr><tr><td>Yes, if the association bears responsibility for maintenance of common roofs, party walls, or structural aspects of the dwellings</td><td></td></tr><tr><td>TOTAL</td><td></td></tr></table></div></div>	ANSWER CHOICES	RESPONSES	Yes, for all communities		Yes, when the community includes common improvements that, if not adequately maintained, could present dangerous conditions and lead to injuries		Yes, if the association bears responsibility for maintenance of common roofs, party walls, or structural aspects of the dwellings		TOTAL		<div><div><div>Yes, if the association bears responsibility for maintenance of...</div><div>Yes, when the community includes common improvements that, if not...</div><div>Yes, for all communities</div></div><div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes, for all communities</td><td>39.0%</td></tr><tr><td>Yes, when the community includes common improvements that, if not adequately maintained, could present dangerous conditions and lead to injuries</td><td>21.3%</td></tr><tr><td>Yes, if the association bears responsibility for maintenance of common roofs, party walls, or structural aspects of the dwellings</td><td>39.0%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div></div>	ANSWER CHOICES	RESPONSES	Yes, for all communities	39.0%	Yes, when the community includes common improvements that, if not adequately maintained, could present dangerous conditions and lead to injuries	21.3%	Yes, if the association bears responsibility for maintenance of common roofs, party walls, or structural aspects of the dwellings	39.0%	TOTAL					
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TOTAL																										

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGS/CCAL BOG)																				
Do you support state law that allows community association governing boards the authority to special assess without a vote of the membership to address life safety issue maintenance, repairs, or replacement?	<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>80.30%</td></tr><tr><td>No</td><td>9.09%</td></tr><tr><td>Unsure</td><td>10.61%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	80.30%	No	9.09%	Unsure	10.61%	TOTAL		<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>85.26%</td></tr><tr><td>No</td><td>7.05%</td></tr><tr><td>Unsure</td><td>7.69%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	85.26%	No	7.05%	Unsure	7.69%	TOTAL	
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Building Maintenance & Structural Integrity Public Policy Recommendation Survey Results

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)																								
Do you support state laws that require the developer to provide, at or before turnover, a complete set of final approved architectural and engineering design drawings used for construction and for obtaining certificates of occupancy and any field changes affecting the structure components?	<div><table><thead><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr></thead><tbody><tr><td>Yes</td><td>96.77%</td></tr><tr><td>No</td><td>0.00%</td></tr><tr><td>Unsure</td><td>1.61%</td></tr><tr><td>Other (please specify)</td><td>1.61%</td></tr><tr><td>TOTAL</td><td></td></tr></tbody></table></div>	ANSWER CHOICES	RESPONSES	Yes	96.77%	No	0.00%	Unsure	1.61%	Other (please specify)	1.61%	TOTAL		<div><table><thead><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr></thead><tbody><tr><td>Yes</td><td>95.48%</td></tr><tr><td>No</td><td>0.65%</td></tr><tr><td>Unsure</td><td>1.29%</td></tr><tr><td>Other (please specify)</td><td>2.58%</td></tr><tr><td>TOTAL</td><td></td></tr></tbody></table></div>	ANSWER CHOICES	RESPONSES	Yes	95.48%	No	0.65%	Unsure	1.29%	Other (please specify)	2.58%	TOTAL	
ANSWER CHOICES	RESPONSES																									
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Unsure	1.29%																									
Other (please specify)	2.58%																									
TOTAL																										
Do you support state law that requires the developer, at turnover or before, to provide a preventive maintenance schedule including	<div></div>	<div></div>																								

Survey Question	CAI General Membership Response Rate		CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)	
all components that are the responsibility of the association?	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
	Yes	86.89%	Yes	83.23%
	No	8.20%	No	6.45%
	Unsure	3.28%	Unsure	5.16%
	Other (please specify)	1.64%	Other (please specify)	5.16%
	TOTAL		TOTAL	
Do you support state laws that require the developer to provide prospective purchasers a summary of the future building inspection requirements, together with the projected cost of time?				
	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
	Yes	73.77%	Yes	67.53%
	No	11.48%	No	12.34%
	Unsure	9.84%	Unsure	11.69%
	Other (please specify)	4.92%	Other (please specify)	8.44%
TOTAL		TOTAL		
Do you support laws that requires buildings to be inspected every 10 years until the building is 20 years old, then every 5 years thereafter unless otherwise recommended by the prior inspection?				
	ANSWER CHOICES	RESPONSES	ANSWER CHOICES	RESPONSES
	Yes	65.57%	Yes	65.16%
	No	3.28%	No	7.74%
	Unsure	9.84%	Unsure	12.90%
	Other (please specify)	21.31%	Other (please specify)	14.19%
TOTAL		TOTAL		

Survey Question	CAI General Membership Response Rate	CAI Stakeholder Group Response Rate (CAI LACs/MRGs/CCAL BOG)																								
Do you support laws that require a building inspection be conducted by a licensed engineer or architect?	<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>93.55%</td></tr><tr><td>No</td><td>0.00%</td></tr><tr><td>Unsure</td><td>0.00%</td></tr><tr><td>Other (please specify)</td><td>6.45%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	93.55%	No	0.00%	Unsure	0.00%	Other (please specify)	6.45%	TOTAL		<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>82.47%</td></tr><tr><td>No</td><td>4.55%</td></tr><tr><td>Unsure</td><td>5.19%</td></tr><tr><td>Other (please specify)</td><td>7.79%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	82.47%	No	4.55%	Unsure	5.19%	Other (please specify)	7.79%	TOTAL	
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Other (please specify)	7.79%																									
TOTAL																										
Do you support laws that require, for buildings older than 10 years old, the first inspection shall take place within 2 years after the law is passed?	<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>74.19%</td></tr><tr><td>No</td><td>4.84%</td></tr><tr><td>Unsure</td><td>12.90%</td></tr><tr><td>Other (please specify)</td><td>8.06%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	74.19%	No	4.84%	Unsure	12.90%	Other (please specify)	8.06%	TOTAL		<div><table><tr><th>ANSWER CHOICES</th><th>RESPONSES</th></tr><tr><td>Yes</td><td>71.43%</td></tr><tr><td>No</td><td>8.44%</td></tr><tr><td>Unsure</td><td>9.74%</td></tr><tr><td>Other (please specify)</td><td>10.39%</td></tr><tr><td>TOTAL</td><td></td></tr></table></div>	ANSWER CHOICES	RESPONSES	Yes	71.43%	No	8.44%	Unsure	9.74%	Other (please specify)	10.39%	TOTAL	
ANSWER CHOICES	RESPONSES																									
Yes	74.19%																									
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FEDERAL SOLUTIONS AND POLICY PRIORITIES

Federal Policy Priorities to Mitigate Financial Burdens of Structural Analysis & Corrective Maintenance at the Municipal and Household Levels

Executive Summary

Following the tragic Champlain Towers South condominium collapse on June 24, 2021, Community Associations Institute (CAI) has been engaging in conversations, researching, surveying, thinking, and strategizing about what meaningful changes can be made to support structural integrity and safety of condominium buildings.

This segment of the report recommends changes in Federal law and regulation to incentivize timely compliance with CAI adopted public policies with an emphasis on disaster mitigation through building inspection and structural integrity. The recommendations address financial burdens on municipalities and households resulting from periodic structural analysis inspections of covered community association housing.

Priority 1 eases financial burdens on local governments of increased structural analysis inspections by clarifying—or authorizing, if necessary—that inspection of aging covered community association housing is an eligible use of Community Development Block Grant (CDBG) funds. CAI seeks clarification/waiver from U.S. Department of Housing & Urban Development (HUD) that municipalities may use CDBG funds for covered community association structural inspections

Priority 2 engages federal housing agencies to develop government insured or guaranteed corrective maintenance loan products. CAI seeks federal housing agency insurance and/or guarantee of blanket condominium rehabilitation loans secured by assessment income.

Priority 3 and 4 ease financial impacts of corrective maintenance on households through amendments to the Internal Revenue Code to provide pre-loss access to disaster recovery tax deductions and authorizing a federal income tax deduction for interest paid on community association loans funding corrective maintenance.

- **Priority 3**—CAI seeks pre-disaster access to federal uninsured loss disaster personal income tax deduction for community association households following determination of major risk of structural failure for a 10-year period
- **Priority 4**—CAI seeks federal income tax deduction for owner pro rata interest paid on loans funding community association corrective maintenance secured by assessment income

FEDERAL POLICY PRIORITIES

In Depth Description of Federal Policy Priorities

Priority 1. Waiver of CDBG Rules to Facilitate Municipal Government Funded Structural Analyses of Covered Community Association Structures

National Purpose Objectives of CDBG Program

Grantees must use CDBG funds in a manner consistent with at least one of the program's three national objectives: (1) low-and moderate-income area benefit; (2) prevention or elimination of slum/blight; and (3) meeting urgent community needs arising from a serious and immediate threat to public health and welfare.¹ Structural inspections of aging covered community association housing may be eligible CDBG funded costs pursuant to national objective 3, which is often the basis for CDBG funding of code enforcement following a major declared disaster.

Overview of CDBG Code Enforcement Program

Section 105(a)(3) of the Housing and Community Development Act of 1974 (88 Stat. 641) authorizes CDBG grantees to use program funds for "*code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.*" HUD regulations at 24 CFR 570.202(c) provide that CDBG grantees may use funds to supplement costs associated with code enforcement, including "*salaries and related expenses of code enforcement inspectors and legal proceedings...*" HUD guidance further interprets CDBG code enforcement activities through Notice CPD-14-016.²

HUD Notice CPD-14-016 links code enforcement to protecting public health and safety.³ The notice acknowledges general categories of local government approaches to code enforcement. Code enforcement activities prevent, detect, and investigate violations of local statutes to protect public health, safety, and welfare. Code enforcement supports property values through enforcement of minimum aesthetic standards. Additionally, code enforcement may be directed at structures or non-structural elements (e.g., community cleanliness, etc.).⁴ CDBG recipients may use CDBG funds to offset costs of providing code enforcement inspections by staff or by contractors.⁵

Recommendation for CDBG Code Enforcement Funding for Structural Analysis of Aging Covered Community Association Housing

1. CAI seek clarification from HUD that municipalities may use CDBG grants to fund municipal staff and/or contractors to conduct structural inspections of aging covered community association housing structures pursuant to the program's national objective of responding to imminent threats to public health and safety.
2. CAI seek a waiver from HUD determining the imminent threat national objective applies to aging covered community association housing structures irrespective of household income.

¹ U.S. Department of Housing and Urban Development, "Guide to National Objectives and Eligible Activities for CDBG Entitlement Communities," February 2001, p. 3-1. Available at <https://www.hudexchange.info/sites/onecpd/assets/File/CDBG-National-Objectives-Eligible-Activities-Chapter-3.pdf>.

² HUD Notice CPD-14-016, Use of CDBG Funds for Code Enforcement Activities.

³ Ibid., p. 3.

⁴ Ibid., p. 2.

⁵ Ibid., p. 4.

Priority 2. Federal Housing Agency Support for Corrective Maintenance Financing

The intent of modifying federal agency loan programs to permit support for covered community association corrective maintenance loans is to reduce the cost of credit and extend loan terms. It is hypothesized that lower lending costs combined with longer terms will reduce annual financial outlays by households, increasing the likelihood association households will support collective management actions. The following recommendation discusses loan programs of the Federal Housing Administration (FHA), Fannie Mae, and Freddie Mac.

Overview of Federal Housing Administration (FHA) Rehabilitation Loan Programs

Section 234(d) of the National Housing Act authorizes FHA to insure blanket mortgages for the construction or rehabilitation of multifamily structures where housing units will be sold as individual condominium units upon project completion.⁶ While the 234(d) program remains statutorily authorized, the program is inactive due to lack of market demand and availability of market rate construction and rehabilitation financing.⁷

Other FHA multifamily rehabilitation mortgage insurance programs are directed to multifamily rental properties. The Section 223(e) FHA program⁸ supports rehabilitation of rental housing in declining and distressed areas but is inactive due to low participation.⁹ The FHA Section 223(f) and Section 220 programs insure mortgages used for substantial rehabilitation of multifamily rental properties and are active.

The Section 223(f) program has maximum loan-to-value (LTV) rates based on the income characteristics of residents. Pertinent to CAI is an 85% LTV for projects that meet the definition of affordable housing and 83.3% LTV for market rate properties. The 223(f) program requires that the remaining life of the project permit at least a 10-year loan term. The maximum loan term is 35 years or 75% of the estimated life of the project.¹⁰

The Section 220 program¹¹ focuses on rehabilitation of single family and multifamily rental properties in areas where local governments have concentrated code enforcement activity (e.g., urban renewal area, natural disaster area). Rehabilitation loans may not exceed 90 percent of the estimated cost of repair and rehabilitation work and the estimated value of the property prior to the repair/rehabilitation project. The maximum loan amortization is 40 years or 75 percent of the remaining economic life of the project, whichever is less.¹²

Overview of Fannie Mae and Freddie Mac Multifamily Loan Programs

Fannie Mae and Freddie Mac each have multifamily loan purchase programs that support the rehabilitation of multifamily properties. Due to the similarities in loan purchase programs only Fannie Mae programs will be discussed.

⁶ [12 U.S.C. § 1715y\(d\)](#)

⁷ [U.S. Department of Housing and Urban Development, Mortgage Insurance for Construction or Substantial Rehabilitation of Condominium Projects: Section 234\(d\)](#).

⁸ [12 U.S.C. § 1715n\(e\)](#)

⁹ [U.S. Department of Housing and Urban Development, Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223\(f\)](#).

¹⁰ [U.S. Department of Housing and Urban Development, Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223\(f\)](#)

¹¹ [12 U.S.C § 1715k](#)

¹² [U.S. Department of Housing and Urban Development, Programs HUD, p. 51](#); (*emphasis added*).

Under the Housing Cooperative Mortgage Purchase Program, Fannie Mae will purchase a mortgage secured by an eligible housing cooperative project. Mortgage terms range between 5 to 30 years with fixed rates, provided the project meets Fannie Mae eligibility requirements.¹³

The Fannie Mae Moderate Rehab Loan Program (MRLP) targets multifamily project owners that seek to improve the property at a minimum cost of \$8,000 per unit.¹⁴ The program is not currently designed to serve condominium associations. An example of this (other than property eligibility) is a requirement that 60% of budgeted improvements must be used for unit interior upgrades.¹⁵

Modifying FHA, Fannie Mae, and Freddie Mac Multifamily Rental Programs

No active programs at the federal housing agencies are suitable to support access to long-term, low-cost credit to fund corrective maintenance of common elements of covered community associations. The FHA Section 234(d) program is inactive, and more information should be sought to understand its prior operations and applicability to current needs.

Aspects of other FHA multifamily rental property rehabilitation loans may serve as pathways to amending and restarting the Section 234(d) program. Discussions with a broad number of stakeholders, including FHA, lenders, and community associations would be required to determine if the Section 234(d) program is a viable program in the current market and what statutory and administrative changes would be required to for the program to be repurposed.

Fannie Mae and Freddie Mac have greater flexibility in designing loan programs but are constrained by the Federal Housing Finance Agency (FHFA), which is conservator for both companies. FHFA has authority over Fannie Mae and Freddie Mac programs and activities and would be a mandatory stakeholder in any discussions.

While Fannie Mae and Freddie Mac have more flexibility, there is a concern over layers of risk. If the companies own or guarantee unit mortgages in the association, guaranteeing a blanket mortgage or other rehabilitation loan significantly increases risk.

Recommendation to Engage Lenders, Federal Agencies in Discussions on Corrective Maintenance Loan Programs

1. Engage with stakeholders in FHA, FHFA, Fannie Mae, Freddie Mac, and private lending community to determine how existing federal agency rehabilitation loan programs may be modified—statutorily or administratively—to permit the insurance or guarantee of loans used by covered community associations for corrective maintenance.

Priority 3. Extension of Federal Uninsured Disaster Loss Income Tax Deduction for Corrective Maintenance to Prevent Structural Failure

Overview of Uninsured Disaster Loss Federal Income Tax Deduction

Individuals and households in areas covered by a presidential disaster declaration may deduct

¹³ [Fannie Mae Seller Guide, Part III, Chapter 8, Section 801](#)

¹⁴ [Fannie Mae Seller Guide, Part III, Chapter 3, Section 301](#).

¹⁵ Ibid.

uninsured casualty losses (subject to certain conditions and limitations) on federal income tax returns.¹⁶ The uninsured casualty loss deduction has been made available to homeowners to defray costs of replacing corrosive drywall and defective concrete foundations for a filer's primary residence, a use that is consistent with corrective maintenance.¹⁷ In 2017, Congress amended the uninsured casualty loss income tax deduction to provide enhanced benefits to individuals and households in presidentially designated disaster areas in 2016 and financed the enhanced benefits by limiting non-disaster casualty loss deductions from 2018 to 2025 (131 Stat. 2079). Allowing covered community association owner access to the uninsured disaster loss deduction will provide resources for corrective maintenance and reduce potential Federal government disaster response outlays.

Applicability of Uninsured Disaster Loss Federal Income Tax Deduction

President Biden issued a federal emergency declaration following the collapse of Champlain Tower South on June 25, 2021. As of September 16, 2021, \$890,537 in Individuals and Households Assistance and \$35,550,495 in Public Assistance have been disbursed from the Disaster Relief Fund maintained by the Federal Emergency Management Agency (FEMA).¹⁸

In 2018, Congress amended disaster recovery statutes to make available additional resources for pre-disaster mitigation programs that seek to limit disaster damages through preventative measures (132 Stat. 3461).¹⁹ These provisions marked a shift in disaster response, with Congress emphasizing cost savings of pre-disaster mitigation.

Amending 42 USC § 125 to authorize a pre-disaster income tax deduction for a portion of a homeowner's pro rata share of corrective maintenance costs will decrease financial burdens. It is hypothesized that reducing per household corrective maintenance costs will increase household willingness to participate in collective risk management actions and limit future federal disaster expenditures.²⁰ Limiting the deduction to a 10-year period incentivizes covered community associations to promptly investigate structural integrity of common elements, take appropriate corrective action, and budget appropriately for future corrective maintenance costs.

Recommendation for Amendment to Internal Revenue Code to Allow for a Pre-Disaster Casualty Loss Deduction for Covered Community Association Homeowners to Expire 10-years after Enactment

1. Amend 42 USC § 125 to allow a 10-year time limited personal income tax deduction for pro rata share of association expenses to undertake corrective maintenance on association common elements based on a finding of substantial structural degradation that threatens health and safety of residents.

Priority 4. Pro Rata Interest Income Tax Deduction for Community Association Corrective Maintenance Loan

IV.1. Overview of Cooperative Mortgage Interest Deduction

26 USC § 163(h)(3) allows homeowners to deduct interest paid on a mortgage secured by residential real property. This provision is the basis for a personal federal income tax deduction for housing cooperative

¹⁶ [26 U.S.C. § 165\(i\)](#) and [IRS Publication No. 547 \(2020\): Casualties, Disasters, and Thefts](#).

¹⁷ [IRS Revenue Procedure 2018-09: Casualty Loss Deduction for Damage to Personal Residence Related to Corrosive Drywall](#).

¹⁸ [Federal Emergency Management Agency, Florida Surfside Building Collapse, Emergency Declaration 3560-EM-FL](#).

¹⁹ 42 U.S.C. § 5133

²⁰ Arkcoll, Kaylene, Chris Guilding, Dawne Lamminamki, Lisa McManus, and Jan Warnken, "Funding common property expenditure in multi-owned housing schemes," *Property Management*, Vol. 31, No. 4 (2013), p. 282-296; Scheller, Daniel S., "The Effects of Neighborhood Democracy on Cooperation: A Laboratory Study," *Journal of Urban Affairs*, Vol. 37, No. 5 (2015), p. 568-583; Yau, Young, "Willingness to Participate in Collective Action: The Case of Multiowned Housing Management," *Journal of Urban Affairs*, Vol. 35, No. 2 (2013), p. 153-171.

shareholders for interest paid by a cooperative corporation on debt used to “buy, build, change, improve, or maintain the cooperative’s housing, or on a debt to buy land.”²¹

The permissible individual deduction is calculated by dividing the total shares of stock in the housing cooperative by the number of an owner’s shares of stock and then dividing the total amount of interest paid by the quotient of the prior calculation. This calculation is typically managed by a housing cooperative corporation and eligible mortgage interest deductions reported to shareholders via IRS Form 1098.²²

Qualifying Association Loans Used for Corrective Maintenance for Interest Deduction

It is common for community associations to pledge assessments as collateral to secure a loan rather than real property. For mortgage interest to qualify as a deductible expense, the mortgage must (1) be secured by filer’s home (i.e., real property); (2) allow the real property to be used to satisfy the filer’s debt for non-payment; and (3) be recorded or perfected under applicable state law.²³

As community association loans do not typically meet these qualifications, owners are not permitted to deduct pro rata shares of interest paid on association debts incurred to finance corrective maintenance. Modifying 26 USC § 163(h)(3) to permit community association homeowners to deduct a pro rata share of interest paid on debts secured by association assessments or other similar arrangements to finance corrective maintenance is hypothesized to reduce individual and household costs and increase willingness to engage in collective management activities.²⁴

Recommendation to Amend 26 USC § 163(h)(3) to Allow Deduction of Interest Paid on Loans Financing Corrective Maintenance

1. Amend 26 USC § 163(h)(3) to allow community association homeowners to deduct the pro rata share of interest payments on loans financing corrective maintenance pursuant to a structural analysis of association common elements to achieve parity with standards applicable to housing cooperative shareholders.

²¹ [IRS Publication 936 \(2020\), Home Mortgage Interest Deduction.](#)

²² Ibid., p. 9.

²³ Ibid., p. 3.

²⁴ See footnote 10.

**Appendix A: Summary of Federal Disaster Assistance Programs
Applicable to Structural Analysis and Corrective Maintenance Funding Sources**

Priority 1: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<u>Community Development Block Grant Program</u>	<p><u>Summary</u> The Community Development Block Grant (CDBG) program has three national purposes: (1) low-and moderate-income area benefit; (2) prevention or elimination of slum/blight; and (3) meeting urgent community needs arising from a serious and immediate threat to public health and welfare. Within these national purposes, grantees may rehabilitate residential and non-residential properties and provide public services, among other permissible activities.</p> <p><u>CDBG Funds Authorized for Code Enforcement</u> Section 105(a)(3) of the Housing and Community Development Act of 1974 (88 Stat. 641) authorizes CDBG grantees to use program funds for code enforcement. <i>“code enforcement in deteriorated or deteriorating areas in which such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.”</i></p> <p>HUD regulations at 24 CFR 570.202(c) provide that CDBG grantees may use funds to supplement costs associated with code enforcement. HUD provides guidance on code enforcement activities through Notice CPD-14-016, which provides that CDBG recipients may use grant funds to offset costs of providing code enforcement inspections by staff or by contractors.</p> <p><u>Applicability to Disaster Response</u> One of the authorized code enforcement purposes of CDBG grants is inspection of structures following a major disaster or where there are threats to public health. Determining structural integrity of aging covered community association structures is within the spirit, if not letter, of this purpose.</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • Housing and Community Development Act of 1974 (88 STAT 633) • HCDA Section 105 (88 STAT 641; 42 U.S.C. § 5305) <p><u>Administration</u></p> <ul style="list-style-type: none"> • 24 CFR 570.202 • HUD Notice CPD-14-016

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<u>FHA Section 234(d)—Insurance of Blanket Mortgage for Condominium Project</u>	<p><u>Summary</u></p> <p>Section 234(d) of the National Housing Act authorizes FHA to insure blanket mortgages for the construction or rehabilitation of multifamily structures where housing units will be sold as individual condominium units upon project completion. HUD publishes annual loan limits for projects based on a formula that varies by number of bedrooms in each unit and based on the presence of elevators in the project.</p> <p>While the Section 234(d) program remains authorized in federal statute, developers have not sought FHA insurance for construction or rehabilitation loans through the program for several years.</p> <p><u>Applicability to Disaster Response</u></p> <p>Exploration of the Section 234(d) program may be useful to lower financing costs of substantial rehabilitation projects at aging condominiums. Key considerations include the availability of conventional credit at competitive terms and the willingness of HUD to amend and reactivate a dormant program. A demonstration program may be an acceptable outcome.</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • Section 234(d) of the National Housing Act, 12 USC 1715y(d) • HUD Handbook 4580.1 <p><u>Administration</u></p> <ul style="list-style-type: none"> • U.S. Department of Housing and Urban Development, Office of Housing <p><u>Additional Information</u></p> <p>Section 234(d) Program</p>

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<u>FHA Section 223(e)—Multifamily Rental Mortgage Insurance Program for Older, Declining Areas</u>	<p><u>Summary</u> Section 223(e) of the National Housing Act authorizes FHA to insure mortgages used to purchase or rehabilitate multifamily rental projects in declining and distressed areas.</p> <p>Similar to the Section 234(d) program, the Section 223(e) program retains its statutory authorization, but the program is considered inactive by FHA due to low participation.</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • 12 USC 1715n(e) <p><u>Administration</u></p> <ul style="list-style-type: none"> • U.S. Department of Housing and Urban Development, Office of Housing
<u>FHA Section 223(f)—Multifamily Mortgage Insurance Programs</u>	<p><u>Summary</u> The Section 223(f) program allows FHA to insure a mortgage for a multifamily rental project. Minor repairs may be financed through the 223(f) program provided the repairs are completed within 12 months of loan closing.</p> <p>The Section 223(f) program may provide a model for amendments to the Section 234(d) program or similar loan guarantee or mortgage insurance option to lower costs of structural restoration projects.</p> <p><u>Loan Terms & Limitations</u> The 223(f) program has maximum loan-to-value (LTV) rates based on the income characteristics of residents. Pertinent to CAI is an 85% LTV for projects that meet the definition of affordable housing and 83.3% LTV for market rate properties.</p> <p>The 223(f) program requires that the remaining life of the project permit at least a 10-year loan term. The maximum loan term is 35 years or 75% of the estimated life of the project. FHA recently rescinded a requirement that projects have been completed or not undergone a rehabilitation in the 3 years immediately prior to applying for Section 223(f) mortgage insurance.</p> <p><u>Applicability to Disaster Response</u> Allowing aging condominiums access to the 223(f) program will require a statutory change. However, FHA insurance may allow a condominium to refinance debt incurred due to a rehabilitation project at more favorable terms. Importantly, FHA has expanded a pilot program that coordinated Section 223(f) mortgage insurance with projects qualifying for LIHTCs.</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • 12 USC 1713 • 12 USC 1715n(f) <p><u>Administration</u></p> <ul style="list-style-type: none"> • U.S. Department of Housing and Urban Development, Office of Housing <p><u>Additional Information</u></p> <ul style="list-style-type: none"> • HUD Notice H 20-03: Revision of the Section 223(f) Policy Requiring Three Years of Post-Construction Sustained Occupancy • Mortgage Insurance for Purchase or Refinancing of Existing Multifamily Rental Housing: Sections 207/223(f)
<u>FHA Section 220—Mortgage Insurance for</u>	<p><u>Summary</u> The Section 220 focuses on rehabilitation of single family and multifamily rental properties in areas where</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • 12 USC 1715k • 24 CFR 200

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<u>Rental Housing for Urban Renewal and Concentrated Development Areas</u>	<p>local governments have concentrated code enforcement activity (e.g., urban renewal area, natural disaster area).</p> <p><u>Loan Terms & Limitations</u> Rehabilitation loans may not exceed 90 percent of the estimated cost of repair and rehabilitation work and the estimated value of the property prior to the repair/rehabilitation project. The maximum loan amortization is 40 years or 75 percent of the remaining economic life of the project, whichever is less.</p> <p><u>Similar FHA Multifamily Rehabilitation Mortgage Insurance Programs</u> FHA additionally maintains the agency's Section 221(d)(3) and (4) programs that insure mortgages for multifamily rental projects that are designated for the elderly or housing cooperatives serving moderate income families (see also 24 CFR 221). The 221 programs offer mortgage insurance for loans financing construction or substantial rehabilitation of the property with 221(d)(3) typically used by nonprofit housing providers and 221(d)(4) used by for profit housing providers.</p> <p><u>Applicability to Disaster Response</u> Allowing aging condominiums access to the 220 and 221(d)(4) programs will require a statutory change. However, FHA insurance may allow a condominium to refinance debt incurred due to a rehabilitation project at more favorable terms.</p>	<p><u>Administration</u></p> <ul style="list-style-type: none"> U.S. Department of Housing and Urban Development, Office of Housing
<u>Fannie Mae and Freddie Mac Multifamily Rehabilitation Loan Programs</u> <u>Fannie Mae, Freddie Mac, cont.</u>	<p><u>Summary</u> Fannie Mae and Freddie Mac each have multifamily loan purchase programs that support the rehabilitation of multifamily properties. Due to the similarities in loan purchase programs only Fannie Mae programs are discussed below.</p> <p><u>Fannie Mae Multifamily Loan Programs</u></p> <ul style="list-style-type: none"> <i>Housing Cooperative Mortgage Purchase Program</i>—Fannie Mae will purchase a mortgage secured by an eligible housing cooperative project. Mortgage terms range between 5 to 30 years with fixed rates. provided the project meets delivery requirements of Section 800 of the Multifamily Seller Guide. Mortgage terms range between 5 to 30 years with fixed rates. <i>Moderate Rehab Loan Program (MRLP)</i>—The Fannie Mae MRLP is targeted at multifamily project 	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> Federal National Mortgage Association Charter Act, 12 USC 1716 et seq. Federal Home Loan Mortgage Corporation Act, 12 USE 1451 et seq. <p><u>Administration</u></p> <ul style="list-style-type: none"> Fannie Mae and Freddie Mac, subject to supervision of the Federal Housing Finance Agency

Priority 2: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
	<p>owners that seek to improve the property at a minimum cost of \$8,000 per unit. The program is not currently designed to serve condominium associations. An example of this (other than property eligibility) is a requirement that 60% of budgeted improvements must be used for unit interior upgrades.</p> <p><u>Applicability to Disaster Response</u> Similar to FHA mortgage insurance, adjustments to Fannie Mae and Freddie Mac multifamily rehabilitation loan products to include distressed condominiums will increase the supply of credit for rehabilitation projects and provide more favorable terms.</p>	
<u>SBA Disaster Loan Program</u>	<p><u>Summary</u> The Small Business Administration (SBA) makes available long-term, low interest loans to offset homeowner uninsured disaster losses. Under the SBA home and personal property loan program, homeowners may apply for loans up to \$200,000. Under the current program interest rates may not exceed 4% with amortizations of up to 30 years.</p> <p><u>Applicability to Disaster Response</u> Access to SBA disaster loans may allow homeowners to access low-cost, long-term financing to fund special assessment costs.</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • Small Business Act, 15 USC 636(b) • 13 CFR 123—Disaster Loan Program • SBA Disaster Assistance Program: SOP 50 30 9 <p><u>Administration</u></p> <ul style="list-style-type: none"> • Small Business Administration

Priority 3 & 4: Program Analysis		
Program Name	Program Details	Program Authorization, Regulation, & Guidance
<p><u>Uninsured Disaster Loss Deduction</u></p>	<p><u>Summary</u> Individuals and households located within areas covered by a presidential disaster declaration may deduct uninsured losses (subject to certain conditions and limitations) on federal income tax returns. The casualty loss deduction has been used to defray costs of replacing corrosive drywall and defective concrete foundations for a filer's personal residence.</p> <p><u>Tax Cuts and Jobs Act Disaster Casualty Loss</u> The Tax Cuts and Jobs Act of 2017 (TCJA) eliminated casualty loss deductions other than those resulting from a presidentially declared disaster. The TCJA limitations on non-disaster casualty losses are effective from 2018 to 2025. During this period, households incurring uninsured "qualified damages" resulting from a declared disaster are eligible to deduct uninsured losses in the tax year in which the loss occurred.</p> <p><u>Deduction Formula</u></p> <ol style="list-style-type: none"> 1. Determine the adjusted loss basis of the property (fair market value – present value). 2. Determine the amount of insurance and other reimbursements applied to the loss. 3. Determine the uninsured loss (fair market value – (insurance + reimbursements)). 4. Reduce the qualified uninsured loss by \$500 <i>NOTE: qualified disaster losses are not subject to the non-qualified disaster loss deduction of 10% of the filer's adjusted gross income.</i> <p><u>Casualty Loss Deduction for Defective Drywall and Concrete</u> In 2010 (updated as recently as 2018), the Internal Revenue Service released guidance classifying amounts paid to repair damage to a filer's personal residence caused by corrosive drywall and defective concrete as a permissible casualty loss. The IRS guidance excludes community association common elements from the definition of personal residence, notwithstanding a filer's ownership of a defined percentage of common property.</p> <p><u>Applicability to Disaster Response</u> The federal tax code can be a powerful tool to direct monetary relief to households and has been used to</p>	<p><u>Statutory Authorization</u></p> <ul style="list-style-type: none"> • P.L. 115-97, Tax Cuts and Jobs Act of 2017, Sec. 11028 Relief for 2016 Disaster Areas (131 STAT. 2078-2081) <p><u>Administration</u></p> <ul style="list-style-type: none"> • IRS Publication No. 547 (2020): Casualties, Disasters, and Thefts • IRS News Release 2010-102, IRS Provides Relief for Homeowners with Corrosive Drywall • IRS Revenue Procedure 2018-09 (Casualty Loss Deduction for Damage to Personal Residence Related to Corrosive Drywall) <p><u>Additional Information</u></p> <ul style="list-style-type: none"> • Congressional Research Service In Focus Issue Brief IF10730: Tax Policy and Disaster Recovery • Congressional Research Service Report R45864: Tax Policy and Disaster Recovery
<p><u>Uninsured Disaster Loss Deduction, cont.</u></p>		

Other Federal Policy Alternatives

- **Income Tax Deduction for Reserves Contribution**—CAI should consider policy supporting a federal income tax deduction for the portion of a community association homeowner’s annual assessments that fund association reserves, provided the association meets defined reserve requirement thresholds. The deduction should be subject to limitations and parameters that target relief for low to moderate income households.
- **Income Tax Deduction for Assessments**—CAI should consider seeking out new sponsors for [H.R. 4696, the “Helping Our Middle-Income Earners \(HOME\) Act.”](#) Introduced in the 114th Congress by U.S. Rep. Anna Eshoo (D-CA), the HOME Act allowed a federal income tax deduction of up to \$5,000 for community association assessments, subject to certain limitations.

CONTRIBUTORS

CAI Board of Trustees

James H. Dodson, IV, CMCA, AMS, LSM, PCAM,
President
(Nevada)

Jessica Towles, CMCA, AMS, PCAM, President-Elect

Hammersmith Management, Inc. (Colorado)

Ursula K. Burgess, Esq. Fellow, CCAL,
Immediate Past President

Rees Broome, P.C. (Virginian)

Lisa Cox, CMCA, AMS, LSM, PCAM

Sienna Associations (Texas)

Jeevan John D'Mello, CMCA, AMS, LSM, PCAM,
GDArch

Zenesis Corporation (Dubai, United Arab
Emirates)

Kevin Hirzel, Esq. Fellow, CCAL

Hirzel Law, PLC (Michigan)

Lincoln W. Hobbs, Esq. Fellow, CCAL

Hobbs & Olson (Utah)

Cynthia A. Jones, Esq., Attorney

Sellers, Ayers, Dortch & Lyons P.A. (North
Carolina)

Suzanne Mark

Saw Creek Estates Community Association
(Pennsylvania)

Peter B. Miller, RS

Miller-Dodson Associates (Maryland)

Janet L. Newcomb

Springhurst Townhomes (California)

Melissa Ramsey, CMCA, AMS, LSM, PCAM, CPO

Evergreen Lifestyles Management (South
Carolina)

Vishnu Sharma, CPA CFE

Sharma & Associates, Inc. (Florida)

LaTonya Maria Young-Clayborne, CMCA, AMS,
PCAM

(Maryland)

Kelly Zibell, AMS, PCAM

Divergent Consulting (California)

CAI Government & Public Affairs Committee

Peter Kristian, CMCA, AMS, PCAM, LSM, Chair
Hilton Head Plantation (South Carolina)

Sally L. Balson

Hunt Club Condominium, Inc. (Wisconsin)

Marilyn Eacrett Brainard

Wingfield Springs Community Association
(Nevada)

Wendy Bucknum, CMCA, AMS, PCAM

Murow Development Consultants (California)

M. Katherine Bushey, Esq.

Kaman & Cusimano (Ohio)

Joseph Carleton, Esq. Fellow, CCAL

Jensen, Baird Gardner & Henry (Maine)

Sandra K. Denton, CMCA, LSM, PCAM

Sienna Plantation Residential Association, Inc.
(Texas)

Jennifer Eilert, CIRMS

CISA Insurance (Illinois)

Michael Johnson, CMCA, AMS, PCAM

FCS Community Management (Utah)

John Krueger

Associa (Texas)

Lisa A. Magill, Esq. Fellow, CCAL

Kaye Bender Rembaum, PL (Florida)

Nathan R. McGuire, Esq.

Adams | Stirling PLC (California)

Janet L. Newcomb

Springhurst Townhomes HOA (California)

Matt D. Ober, Esq. Fellow, CCAL

Richardson | Ober | DeNichilo LLP, (California)

Scott J. Sandler, Esq. Fellow, CCAL

Sandler, Hansen & Alexander, LLC,
(Connecticut)

Todd A. Sinkins, Esq. Fellow, CCAL

Rees Broome, P.C. (Virginia)

Wendy W. Taylor, CMCA, AMS, LSM, PCAM

South Riding Proprietary, Inc. (Virginia)

Michael Traidman

Mira Vista at Mission Hills (California)

Craig F. Wilson, Jr., CMCA, AMS, PCAM

Vanguard Management Associates, Inc.
(Maryland)

Ronald L. Perl, Esq. Fellow, CCAL

Hill Wallack, LLP (New Jersey)

J. David Ramsey, Esq. Fellow, CCAL
Becker (New Jersey)

CAI Federal Legislative Action Committee

Ronald L. Perl, Esq. Fellow, CCAL, Chair
Hill Wallack, LLP (New Jersey)

J. David Ramsey, Esq. Fellow, CCAL
Becker (New Jersey)

Jeffrey A. Beaumont, Esq. Fellow, CCAL
Beaumont Tashjian, (California)

Marilyn Eacrett Brainard
Wingfield Springs Community Association
(Nevada)

Wendy Bucknum, CMCA, AMS, PCAM
Murrow Development Consultants (California)

Robert M. Diamond, Esq. Fellow, CCAL
Reed Smith, LLP (Virginia)

Andrew S. Fortin, Esq.
Associa (Texas)

Peter Kristian, CMCA, AMS, PCAM, LSM, Chair
Hilton Head Plantation (South Carolina)

Lisa A. Magill, Esq. Fellow, CCAL
Kaye Bender Rembaum, PL (Florida)

Stephen M. Marcus, Esq. Fellow, CCAL
(Massachusetts)

George E. Nowack Jr., Esq. Fellow, CCAL
NowackHoward, LLC (Georgia)

Stefan Richter, Esq. Fellow, CCAL
Clemons Richter & Reiss, P.C. (Pennsylvania)

Clifford J. Treese, CIRMS
Association Data, Inc. (ADI) (California)

Task Force Chairpersons

Building Maintenance and Structural Integrity

Robert M. Diamond, Esq. Fellow, CCAL
Reed Smith, LLP (Virginia)

Mitch Frumkin, P.E., RS, CGP
Kipcon, inc., (New Jersey)

Stephen M. Marcus, Esq. Fellow, CCAL
(Massachusetts)

Reserve study and Funding Plans Task Force

Robert Browning, PCAM, RS
Browning Reserve (California)

Mitch Frumkin, P.E., RS, CGP
Kipcon, inc., (New Jersey)

Lisa A. Magill, Esq. Fellow, CCAL
Kaye Bender Rembaum, PL (Florida)

Insurance and Risk Management Task Force

Jennifer Eilert, CIRMS
CISA Insurance (Illinois)

Phillip Masi, CIRMS
AssuredPartners (Florida)

A.J. Scott, CIRMS
Cline Agency Insurance Brokers (California)

Clifford J. Treese, CIRMS
Association Data, Inc. (ADI) (California)

Staff Team

Tom Skiba, CAE, Chief Executive Officer

Dawn M. Bauman, CAE Senior Vice President,
Government & Public Affairs; Executive
Director, Foundation for Community
Association Research

Phoebe Neseth, Esq., Director, Government &
Public Affairs, College of Community
Association Lawyers

C. Scott Canady, Tambala Strategies, Federal
Advocate

Daniel Brannigan, Director of Publishing,
Managing Editor, Common Ground™ magazine

Cori Canady, Creative Director

Luladay Fekadu, Senior Manager, Government
& Public Affairs

In addition to the above-mentioned individuals, hundreds of others contributed to the conversation and effort. Thank you to the hundreds of volunteers who contributed to the efforts of these public policy recommendations.

ADDITIONAL RESOURCES

[September/October 2021 Common Ground™ magazine](#), CAI's flagship publication. (*Champlain Towers South specific content*).

[2020-2021 Statistical Review](#) published by the Foundation for Community Association Research.

[Reserve Studies and Management Best Practices Report](#) published by the Foundation for Community Association Research.

[Breaking Point: An assessment of aging infrastructure in community associations](#) published by the Foundation for Community Association Research



For more information, contact:

Dawn M. Bauman, CAE

dbauman@caionline.org

(703) 970-9224

Phoebe Neseth, Esq.

pneseth@caionline.org

(703) 970-9256



6402 Arlington Blvd., Suite 500
Falls Church, VA 22042
(888) 224-4321

www.caionline.org



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